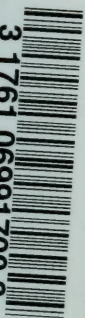
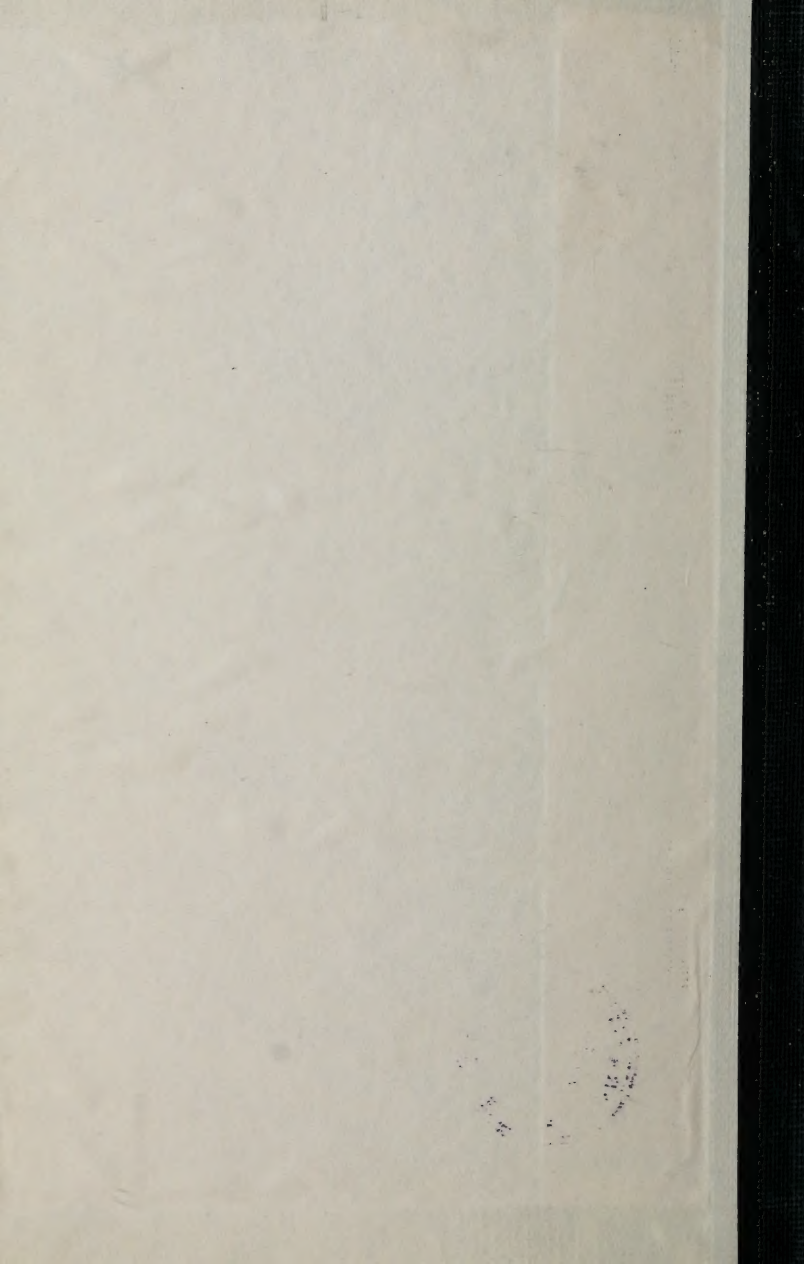


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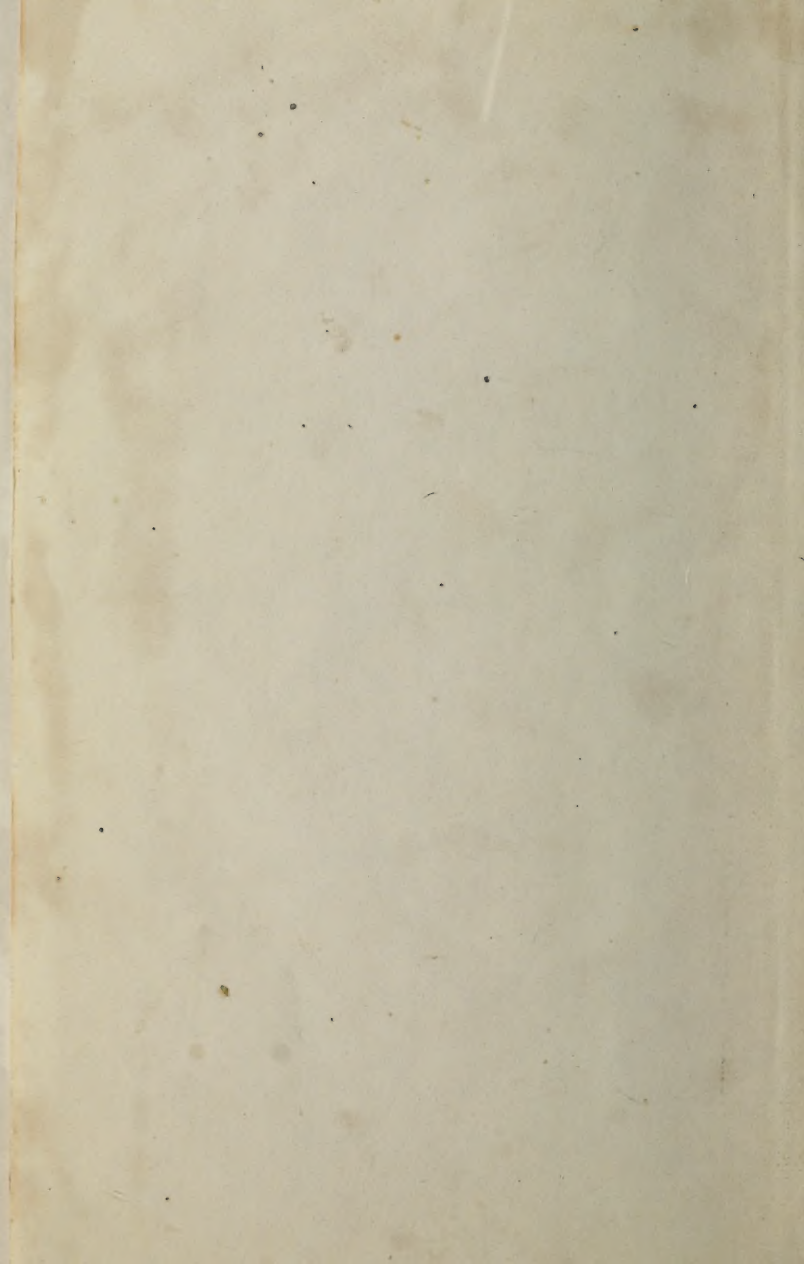




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LALA LAJPAT RAI'S TRIAL

BY

Anand Narain Sewal B. A., LL. B.,

Assistant Editor, the "Tribune."

With a Foreword

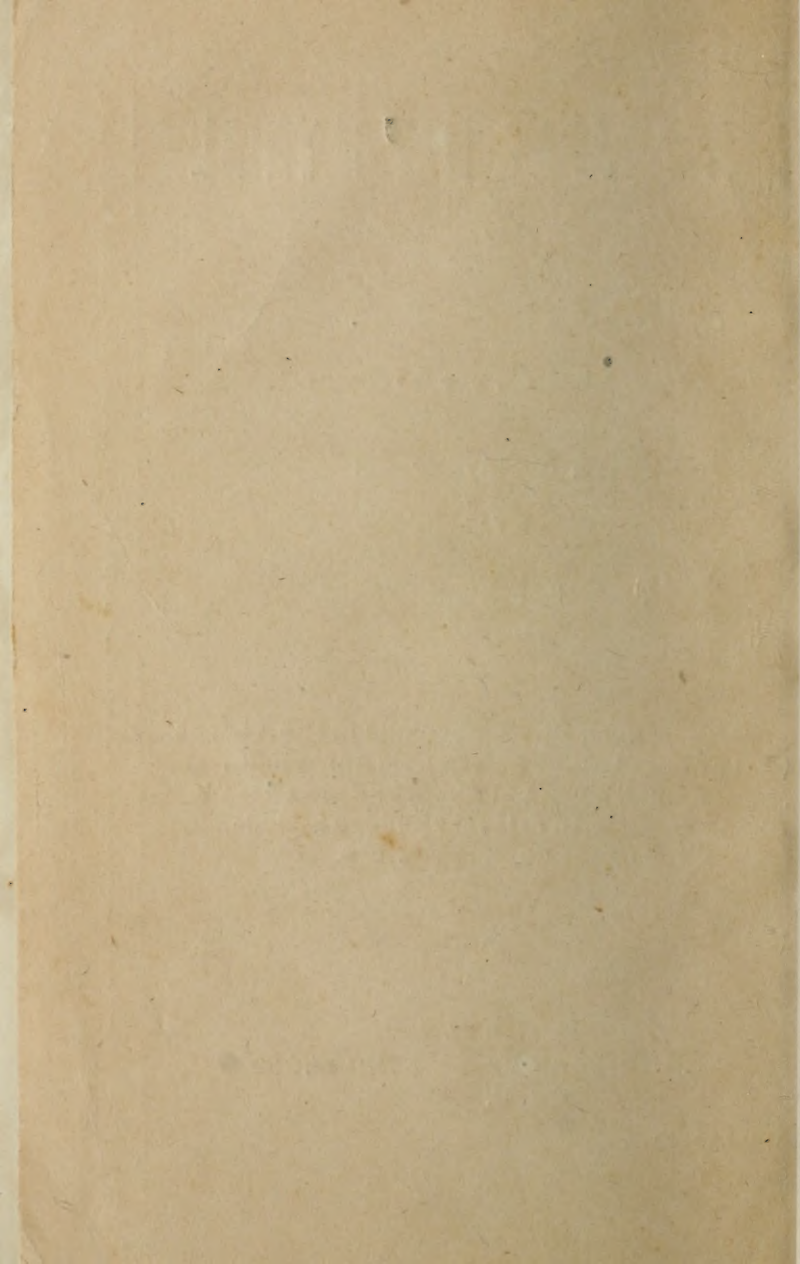
BY

Prof. Ruchi Ram Sahni.

A complete record of proceedings in the recent trial of Lala Lajpat Rai, Pandit Santanam, Dr. Gopi Chand, Maik Lal Khan, and Lala Tirlok Chand along with relevant papers including Press comments, etc.

**PRINTED BY
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1922.**

Price Re. 1 only.



7th November 1932.
Bombay.

G. V. D. Chatterjee

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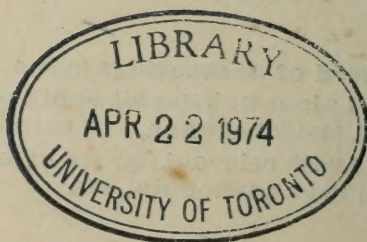
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DEDICATED

TO

LALA LAJPAT RAI.

"I used to think a prison was a fearful place,

*Where only knaves and fools were whipped for
sin ;*

But now it seems a shrine of goodliness and grace,

Since you went in

*I used to think a prisoner, a leprous wretch of
taint*

The proper thing for righteousness to shun ;

*But now the meanest felon is as hallowed as a
Saint—*

Since you are one."

S. A. deWitt in "Good Morning."

PREFACE

This little book has been printed in a hurry and the major portion of it was ready before the case was finally disposed of. There is some little irregularity in the arrangement of matter which it is intended to set right if the book will have the good fortune to go through another edition. A good deal of "copy" has been taken from the *Tribune* for which my best thanks are due to the Editor. My thanks are also due to my colleagues, Mr. Srinivasa Iyengar and Pandit Pyare Mohan B.A., LL.B., for valuable help rendered.

Lala Arjan Das M.A., LL.B., Manager of the *Tribune* has got the work of printing expedited and Pandit Hari Chand Chaudhri has also helped in many ways. Both the gentlemen are entitled to my thanks.

I should be failing in my duty if I omitted to express my warm gratitude to Professor Ruchi Ram Sahni who has very kindly written a foreword at my request.

ANAND NARAIN SEWAL,

LAHORE :

1st February 1922.

FOREWORD.

The case with which this little book deals is of more than passing interest. Lala Lajpat Rai is, perhaps, one of not more than three or four living public men in India who are personally known far and wide outside their own country. Apart from the question of personalities, the trial and conviction of four highly respectable Indians for attending a meeting of the Provincial Congress Committee reveals the utterly irresponsible character of the system of administration under which we live, despite the boasted "new dispensation" ushered in by the Reforms Act. It is one of the paradoxes of recent Indian history to which it has been our misfortune to bear frequent witness, that rulers, who begin with singing their own praises and putting forward attractive programmes of reform, more readily succumb to bureaucratic influences around them than others whose picture, in George Elliot's phrase, was not so much flattered either by themselves or their admirers. It is well-known that in accepting the high office to which Lord Reading was appointed about this time last year, his one oft-declared wish was to be the Harun-Raschid of India. Later on, when it was pointed out to him that India wanted liberty even more than justice, he at once put up the tri-colour banner of Justice, Liberty and Equality. How little did we realise at the time that the ex-Lord Chief Justice of England would, within only a few months of his landing on the shores of India, make himself responsible for taking away from the people even the most elementary rights of citizenship, viz., the freedom of speech, the freedom of public assembly and association and the freedom of the Press. We hear a great deal in these

days of law and order, but little or nothing of justice and liberty. As Sir Hormusji Wadia pointed out the other day in words of great beauty and concentrated force in his speech at the Malaviya Conference at Bombay : " Law and order are the tyrant's plea in all history."

No less clear and convincing for those who may be open to conviction are the words of "*The Manchester Guardian*" It says :—" The principle of liberty, the struggle for which runs through all English history, does not consist in vindicating freedom of expression for the principle that we like. Its " acid test " is freedom for the advocacy of principle that we dislike. We all want to be free to express our own opinion. But if we believe in liberty, we are not less concerned that our opponents should be free to express their, to us objectionable, perhaps abhorrent, opinions. The freedom of truth is also the freedom of error. Let no one suppose that this is mere waste and loss, for it is only through the ventilation of all shades of opinions, erroneous as many of them will be, that truth is tested and finally set upon a firm and rational basis. Most errors contain some truth You do not prove a man wrong in argument by knocking him on the head or putting him on to a plank bed. What you suggest rather is that you are afraid of his arguments and feel yourself incapable of meeting them with a reasoned reply. '

The fact is, the bureaucrat the world over, has unlimited faith in himself and specially in the efficacy of coercion and repression. All the lessons of history to the contrary are lost upon him. Indeed, history is the one thing which he has a more genuine contempt for than any other thing. He believes in making history, not in studying it. Mr. Bumbler in *Oliver Twist* shows a truer appreciation of the working of human nature as revealed in the progress of mankind, when he says in his own simple, unsophisticated way " the law is a bass, '

than some of our administrators do. They would, perhaps, pull up their faces and frown at us if they were told, in the words of a famous political thinker that "*all our liberties are due to men who, when their conscience has compelled them, have broken the laws of the land.*"

It is not difficult to imagine what incalculable harm Lala Lajpat Rai and his associates would have done to the cause of truth and human freedom if, at the bidding of the District Magistrate of Lahore, they had cancelled the meeting of the Provincial Congress Committee which had been called for the 3rd December last. By standing up for a fundamental right of the people, which was sought to be trampled under foot, they have not only vindicated their country's honour, but they have also raised public life in India to a higher level. As in religion so also in the department of justice, we do not suffer so much from bad laws as we do from the wrong and unjustifiable interpretations of laws by an ignorant and interested theocracy in the one case and an irresponsible bureaucracy in the other.

It was to guard against the exercise of excessive authority by the executive that our local Legislative Council adopted a resolution, sometime back, against the wishes of Government that all cases of non-co-operators in which there was possibility of miscarriage of justice should be sent up for revision or review to the High Court. Competent lawyers are of opinion that the High Court could send for the cases on its own initiative and review them. As we know, nothing of the kind was done in the present case. And, perhaps, it was just as well that it was so. For one thing it would show, if our councillors can understand the plain meaning of it, that resolutions or no resolutions, the Government knows best what to do under a particular set of circumstances, and what not to do. One thing, however, we have not been able to understand, *viz*, why was a second charge

under section 145 I. P. C. framed later in the proceedings of the case, why, when a conviction was actually secured, was the punishment under that charge remitted altogether, and, if a reference had finally to be made to the Government of India on a simple question of law, why was not this done a month earlier? The proceedings in the court were going on so leisurely, so far as it suited the convenience of the Prosecution or the Court, that no one can plead want of time for not making such a reference earlier to the Government of India. The only occasion that we know of when the Court was pressed for time, was when Lala Lajpat Rai asked for a few days' postponement for the preparation of his statement. The only answer to these questions which suggests itself to us is that the Government has a great many more reasons for what it does than the public have a right to know. Therein lies the whole justification or the condemnation, according as we look at the matter from one view-point or another, of concentrating both the judicial and executive functions in one individual. If the judiciary were independant of the Executive, if one wing of the administrative machinery had been as anxious for the maintenance of law and order *consistently with the protection of the personal and public rights of the citizens*, as the other wing has been anxious, everything would have been alright. The whole trouble arises from the fact that the executive authorities often issue orders or put interpretations upon existing laws which are inconsistent with the fundamental rights of the people. In the present case, the Deputy Commissioner of Lahore was the stage manager from the begining to the end of the play.

The present case is easily distinguishable from the hundreds of cases recently decided or now pending in courts of law throughout the length and breadth of India. Prosecutions in these cases have been launched either under the Criminal Law Amendment Act of 1908 Part II or under the Prevention of Seditious Meetings Act. In the latter class of cases,

the accused have deliberately broken the laws which were enacted to meet contingencies of a different kind and the application of which to peaceful and non-violent meetings and associations was considered as an unjustifiable trespass upon public rights. *Public* meetings have been held in 'proclaimed' areas with the avowed intention of vindicating a highly cherished right of the people. Not so in Lala Lajpat Rai's case. As may be seen from a perusal of the correspondence which passed between Pandit K. Santanam, General Secretary of the Punjab Provincial Congress Committee, and Major Michael Ferrar, District Magistrate of Lahore, while the former contended that the holding of a *Committee* meeting did not constitute an offence under the Prevention of Seditious Meetings Act, the latter persisted in his view that it did. It was a question of a difference of opinion regarding the *interpretation* of the words of a particular section of the Act. The sequel has made it abundantly clear who was in the right—Mr. Santanam or Major M. L. Ferrar. The pity is that, oftener than not, excess of zeal for maintaining official prestige is allowed to outrun the limits of justice and decency and the lessons of past experience are thrown to the winds.

In the famous Asaf Ali trial of 1918, a similar question, viz., of the interpretation of the words "open to the public etc." was involved. That trial was held under the Defence of India Act and resulted in the acquittal of the accused. The entire proceedings in the case of Lala Lajpat Rai and his three comrades, beginning with their arrest and prosecution under executive orders and ending in conviction and subsequent release, afford a striking, if sad, commentary on our present system of Government.

While it is a matter for congratulation that the Government has at last realized its mistake and issued instructions that meetings, held in circumstances such as those in which the meeting of the Punjab Provincial Congress

Committee was held, do not legally constitute public meetings, the fact remains that only the *sentences* have been remitted under Section 401 Criminal Procedure Code, but the *convictions stand*. The only satisfactory solution under the circumstances would have been for the local Government to act upon the recommendation embodied in the Resolution moved in the Punjab Legislative Council by Raja Narendra Nath and refer the case to the High Court. The advantages of this course of action, from the public point of view, are obvious. In the first place, the finding of the High Court on the issue involved in the case would have had a binding force on the subordinate courts in the province. As it is, despite the Government communique, the courts are under no *legal obligation* to follow the interpretation placed by the executive on the wording of the particular section. In the second place, in the event of the High Court acquitting the accused, the conviction itself and not merely the sentence would have been set aside.

One need not dwell too much on such niceties of principles and procedure, partly, for the reason that they cannot, in the very nature of things, appeal to an Executive which is not responsible to the people, but, chiefly, because they are outside the province of a layman like the present writer.

It would be ungracious to conclude these brief introductory remarks without a word of appreciation of Mr. Anand Narain Sewal's labours in preparing this useful compilation. As I have already pointed out, Lala Lajpat Rai's trial has, for more reasons than one, attracted wide attention and interest, and Mr. Sewal deserves the thanks of the public for having brought together, in a readily accessible form, all the papers relating to the case.

LAHORE :

1st February 1922 }

RUCHI RAM SAHNI.

THE ARREST AND AFTER.

I.

One cloudy afternoon—it was December 3, 1921—Lala Lajpat Rai, Pandit K. Santanam, Dr. Gopi Chand and Malik Lal Khan found themselves first under arrest and a few hours later clapped in the Lahore Central Jail, as under-trial prisoners. The arrest was not unexpected Lala Lajpat Rai's manifesto and his letter to Mahatma Gandhi to be found on page 92 are conclusive on that point. The meeting of the Punjab Provincial Congress Committee was held with full knowledge of the fact that the district of Lahore was a "proclaimed" area under the Prevention of Seditious Meetings Act. All the members of the Committee, 39 in number including these four gentlemen, attended the meeting on the 3rd fully prepared to suffer the consequences, should the District Magistrate look upon the holding of the meeting as an act in contravention of the provisions of the Prevention of Seditious Meetings Act. The District Magistrate of Lahore *did* regard the meeting as illegal and arrested the four gentlemen and dispersed by force the meeting of the remaining members under the chairmanship of Pandit Rambhaji Dutt Chaudhri.

Lala Lajpat Rai, Pandit K. Santanam, Dr. Gopi Chand and Malik Lal Khan were thus arrested on the 3rd

December 1921. Their trial commenced on the 12th and lasted with intervals till the 7th January 1922. On that day judgment was pronounced by Magistrate Mr. Keough sentencing Lala Lajpat Rai and Pandit K. Santanam to 6 months' simple imprisonment and a fine of Rs. 500 each and Dr. Gopi Chand and Malik Lal Khan to 4 months simple imprisonment and Rs. 300 fine each under the Prevention of Seditious Meetings Act and each of the accused to one year's *rigorous* imprisonment under Section 145, Indian Penal Code. The Government Advocate, Mr. Herbert, had demanded (*vide* page 60) of the Court the maximum sentence under the law for one reason among others that the behaviour in Court of the accused was "truculent." The trying Magistrate, Mr. Keough, showed to the world by inflicting the heavy sentences and further reversing the order in which the sentences were to be undergone (the rigorous was to take effect first) that he was none too loath to oblige Mr. Herbert in that respect. Thus it came about that between the executive and the judiciary—of course it is not suggested for a moment that the two were acting in concert—Lalaji and his three lieutenants found themselves behind the prison bars of an Indian jail. And why? Because *they dared to act in obedience to the dictates of "the little voice within."*

Let there, however, be no misunderstanding of the position taken up by Lalaji and his three friends—in fact by all the 39 who attended the memorable meeting of the 3rd. The holding of the meeting and attendance thereat were *not* regarded by these gentlemen as an act of civil disobedience. They did not go to that meeting in the spirit of civil resisters. The meeting was in effect in the nature of a test case. Lalaji in his "A Prisoner's message" (*vide* page 74) makes that abundantly clear.

So far as the trial itself is concerned, there are some noteworthy points. The first is in regard to the *forum*. On the opening day, the trial took place in the District Court building, and although admission was restricted, the Court room was fairly full. On the day of the next hearing, however, the Court was held inside the Central jail and offer was made to admit only 12 people including relatives and friends of the four accused and members of the public. Four press reporters were also allowed. As a protest against the holding, in the first place, of such an important trial in jail and secondly, restricting of admission to such a ridiculously low number, the Court was boycotted on that day. How determined was the attitude of the trying magistrate in regard to this matter will be abundantly clear from a perusal of the letter of Mr. Bhashyam (brother of Pandit K. Santanam) to the local High Court Bar Association (see page 94).

On the next day of the hearing and succeeding days however, about 60 or 70 people were admitted as a result of the orders issued by the High Court. On the day judgment was pronounced the magistrate again restricted admission to only 25 persons.

The second point is closely related to the first. As a matter of fact it is the cause of which the first was the effect. It is the question of the justifiability and the propriety of holding Courts in jails. Lahore is not the only place nor Lala Lajpat Rai's the only trial in which case during the last couple of months, political trials have been held in jails.

In ancient Rome trials used to take place in the forum which originally meant "the market place" to which every

one had free access. Publicity is the best and only way of ensuring the even-handed dispensation of justice—the bulwork of British rule in India. It is the only way of securing public confidence in the findings of law courts, more particularly, in a country like India where very often the dual functions—of the judiciary and the Executive—are combined in a single person. A trial in open Court becomes still more a necessity where the case is a political one. Jonathan Swift in his *Gulliver's Travels* puts in his hero's mouth :—But having in my life perused many state trials, which I have ever observed to terminate as the judges thought fit to direct I durst not rely on so dangerous a decision in so critical a juncture and against such powerful enemies.”

Human nature the world over and in all ages is practically the same and the chances of political bias polluting the pure fountain of justice are not altogether wanting in India.

Lala Lajpat Rai very properly entered a protest in Court against the trial being held *in camera*. The *Tribune* unearthed a circular of the Lahore Chief Court (as it then was) which runs thus :—

CIRCULAR MEMO. NO. IV—1948 G,

To

ALL SESSIONS JUDGES IN THE PUNJAB AND DELHI,
AND ALL DISTRICT MAGISTRATES IN THE
PUNJAB AND DELHI.

Dated 18th February 1918.

I AM desired to convey the orders of the Hon'ble Judges in regard to trials held in buildings other than those to which the public ordinarily may have access. Conspiracy trials at Lahore have recently taken place in the precincts of the Central Jail, and trials of dacoity and gang cases have also been held in the Jail under the orders of the District Magistrate, or of the Magistrate trying the cases. Section 352 of the Criminal Procedure Code lays down that the place where

a Criminal Court is held "shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them" but the presiding officer may at any stage order that the public generally or any particular person shall not have access to the room or building used as a Court. Thus the discretion to exclude the public from the ordinary Court room or building rests with the presiding Magistrate or Judge. When, however, he necessarily excludes the public by holding his Court in a building such as a Jail, to which the public is not admitted (and he is not entitled to do so without the permission of the Department concerned) he should obtain the sanction of Government thereto through the District Magistrate and should inform the Chief Court that this sanction has been accorded.

2. The Hon'ble Judges are accordingly pleased to direct that a trial shall always be held in a place to which the public may have access unless sanction to hold it at a place where such access is not permissible is previously obtained. In their opinion the proviso to Section 352, Criminal Procedure Code, is intended to apply to exceptional cases and does not justify the holding of a trial in a place to which the public cannot under any circumstances be admitted.

That the conscience of the High Court Bar Association was pricked will be apparent from the following resolutions which were passed by that body.

RESOLUTION I.

That this urgent meeting of the High Court Bar Association enters its strong protest against the holding of the trials of Lala Lajpat Rai and others at Lahore, of Aga Safdar and in others at Sialkot, and in case of other alleged political offenders in other parts of the province inside jails and practically "in camera". This Association regards this procedure as highly improper and as likely to discredit the administration of Criminal Justice in the Province—Carried *nem con.*

RESOLUTION II.

Read letter of Mr. Bhashyam Ayyangar, Vakil, High Court Madras, and resolved that this Association strongly condemns the conduct of Mr. Keough, the Magistrate trying Lala Lajpat Rai's case, in behaving discourteously towards him who had come all the way from Madras to watch his brother's (Mr. Santanam's) case.

That copies of these resolutions may be submitted to the Hon'ble the Chief Justice praying for immediate action (5 members voting against this).

The result of the agitation was, as has been said above, that about 70 persons were admitted to the Court in this specific instance. But many other trials, both at Lahore and elsewhere, continue to be held in jails. As a matter of fact it appears that it is now the usual practice rather than the exception for political trials to be held in jails.

The Hon'ble Sir John Maynard, member of His Excellency the Governor's Executive Council, in the course of his speech on Raja Narendra Nath's resolution in the Punjab Legislative Council *re* moving the High Court to examine the records of Non-co-operators' cases, said : " Government recognises the object of the tactics of the Non-Co-operators. The object as has been explained is simply the same object which runs through all their tactics, that is to say, to create popular sympathy for themselves and to destroy the affection and respect in which the Government is held. Those are the objects undoubtedly with which these tactics are pursued and the tactics have been very cleverly designed to gain that end. Therefore, even if there were no higher object to be gained, it would be necessary for Government to find some means of countering those tactics. There is a higher object to be gained. It is the great desire of Government that justice shall be done." Sir John has imputed motives to Non-cooperators, but with that I am not here concerned. All that

I desire to point out is that if it is "necessary for Government to find some means of countering" the Non-cooperators "tactics," and if "the great desire of Government is that justice shall be done," as I have no doubt it is, then, one of the easiest and most effective ways, so far as Non-cooperators' trials are concerned, is to order that all such cases are to be tried in *open* courts where admission will be freely allowed to members of the public, consistently with the exigencies of space in the Court room. The proceedings of a trial in jail are naturally shrouded more or less in mystery which fact in its turn helps considerably in arousing the sympathy of the people for the Non-cooperator accused. In its own interests, therefore, as also in the interests of justice, Government should lose no time in taking the necessary action in the matter.

The third point is the appointment by the court of an *amicus curia*, a "Friend of the court." This action on the part of the trying court was taken at the instance of the Hon'ble Judges of the High Court and is a distinct innovation. In the hundreds of non-cooperators' cases that have been tried during the last few months' judgment went by default, but for the written statement, so far as the non-co-operator accused are concerned. The method adopted in the appointment of an *amicus curia* in this particular case may be defective, but the fact of the appointment itself is noteworthy as marking a departure from usual practice. True the *amicus curia* is a friend of the Court and not of the accused but the very fact of his appointment in this case has a moral of its own.

The fourth point is in regard to the treatment accorded to these four gentlemen in jail. Lalaji and his friends went to jail not to seek privileges for themselves in the way of

preferential treatment as compared with ordinary prisoners. On the day of his arrest, Lala Lajpat Rai when asked by friends if food was to be sent from home, replied in the negative (see page 4). In regard to their life in jail, I can not do better than refer the reader to the descriptive account of a prisoners' life contributed to the press by Pandit K. Santanam (*vide* page 85) and Lalaji's interview granted to a representative of the *Tribune* (*vide* page 122). In the last week of December there were rumours in the city that Lalaji & his three comrades along with 79 other political prisoners in the Lahore jail had gone on hunger strike. The news spread like wild fire throughout the town and soon travelled not only to other cities in the province but to distant Ahmedabad where the Congress was in session. The following telegram from Ahmedabad published in the local press speaks for itself :—

Ahmedabad, Dec. 28.

On receiving the news of Lalaji's hunger strike !Punjabis met in " Khadi Nagar " at a meeting presided over by Mr. Desai and on the motion being moved by Mr. M. A. Khan, it was unanimously resolved to observe a fast of 24 hours. Another meeting will be called in the evening to consider practical steps. Other provinces are also joining in the observation of the fast.

Nor did the anxiety resulting from the rumour subside until authentic news came from a first hand source that there was no hunger strike and that Lalaji and others had refused to take meals only on a particular day as the quality of food supplied—bad enough as it was—had further deteriorated, rendering it unfit for human consumption. During those anxious days pending the arrival of authentic information, numberless enquiries were made on the phone, by wire, by post and verbally, by all sorts and conditions of men. The following incident reported in the

Tribune is so touching that I can not do better than reproduce it *in extenso*. Says the correspondent writing on December 27, 1921 :—

At the main gate of the Central Jail, yesterday evening were to be seen a large number of visitors. Some were there to meet their relatives incarcerated in that prison, others were the non-co-operators who had gone there to interview the leaders and there were good many spectators who expected to have a glimpse of them through the railings. Among them was to be seen a Hindu woman of about forty, wearing a shabby dress and holding something under her armpit wrapped up in her "dupatta." By dress and appearance she seemed to be an inhabitant of Lahore. She was sitting near the outer railings and was seen folding her hands to warders and the "Naib Darogas" of the jail. She was even seen following the footsteps of the head jailor down to the door of his residential quarters in a suppliant posture with her hands. But no one among the crowd could say who she was, and why was she there. Every one was anxious to learn something about that mysterious Hindu Lady. No one was able to guess rightly what was under her armpit. People were curiously watching her movements, when I was called up by the Assistant Jailor and led in to interview an undertrial non-co-operator. The interview finished. I returned back and found the lady still standing at the gate. She requested me to help her in securing permission to get in. "Whom do you want to interview?" I asked. "I don't know their names," said she, "people call him Lajpat. Since day-break I have been here making requests to all these persons to allow me an interview with my hungry sons. I have brought food for them and they would not allow me to give it to them." She produced from underneath her arm a closed brass vessel and showed it to me. "Here is food for them" said she, "should I take it back with me." I looked at her face: tears were in her eyes. She became silent but after a moment, recovering herself added, "I haven't taken food since two days, and will not take food till they are fed."

For a moment I had not the courage to answer. After a little silence I said, "Mother, it is growing dark and these jailors would not permit you to see Lala Lajpat Rai and others. I can assure you that they have taken their food and you should not observe fast any longer." I requested her to return to the city but she would not budge from that gate. She simply said "No, my sons are hungry, I must give them food." I

remonstrated with her and after much ado made her believe that they were not fasting but she refused to take her food back home. I assured her that each one of us would take a morsel of it from her hands and gave her a seat in the tonga and drove her home.

A writer in the *Hindu* of Madras on reading the above was put in mind of the touching story as related in the *Hindu Shastras* of the poverty-ridden Kuchela offering his handful of parched rice from behind his rags to Sri Krishna. I was reminded of another episode in the *Ramayna*—that of the low-caste Bhil woman, Savri, offering to the exile brothers, Ram Chandra and Lakshman, newly-plucked plums after she had tasted each fruit to assure herself that it was sweet and worthy of the acceptance of her Lord.

India, they say has fallen from her once high pedestal of glory. It may be true in certain particulars but none who read the above story of the poor woman knocking for admittance at the portals of the Lahore jail may doubt the truth of the statement that within the bosoms of the poor of India there is still aglow the spirit of Kuchela and of Savari. The story while it shows on the one hand, the affectionate regard in which the leaders are held, also proves that even in this *Kalyuga* there exist among the men and women of India, may be, hidden like the poets' "gems of purest ray serene," many Kuchelas and Savarias.

III

Just a few words regarding the five gentlemen, whose cases have been published in the following pages, will not be out of place.

To say anything of Lala Lajpat Rai by way of introducing him to the public would be to insult both Lalaji and the reader. Of Lala Lajpat Rai it is sufficient to say that his whole life—he is now over 57—is one long story of

self-sacrifice and transcendent love for the Motherland. Barring Mahatmaji and with the possible exception of Pandit Madan Mohan Malviya—whose life-long services in the cause of his country are apt to be overlooked by some at a time like the present—Lala Lajpat Rai is the greatest leader of India. The love of the Motherland touched him in the early years of growing manhood. This very love has been his motive power all along, till to-day, when other people think of earning a “well-earned” rest, Lala Lajpat Rai marched to the jail willingly, nay, gladly and is undergoing the hardships of an Indian jail. Had he chosen to tread the *other* path, he would have amassed wealth beyond the dreams of avarice, he would have risen to be a High Court Judge or a member of the very Government whose prisoner he is to-day. He may yet rise to those dizzy heights of officialdom but if that event ever comes to happen, it will not be through any *effort* on Lalaji's part. Lala Harkishan Lal was imprisoned for life as an arch-Seditionist. He was called the “Brain of the Punjab Conspiracy.” He never begged for mercy. He was released and a Ministership offered to him unasked and unsolicited. History may repeat itself for aught we know.

Of the remaining four, Pt. Santanam is a young man of about 40. He is a B.A., and a Barrister-at-Law, who commanded a fairly lucrative practice at the Lahore High Court Bar. He came to the fore during the Martial Law period in 1919 and worked with ability and devotion as Secretary of the Punjab Congress Enquiry Committee. From that time, although he continued a little while longer his practise at the bar, it became clear to every one that his heart was no longer in his profession. In obedience to the Congress resolution on Non-cooperation, he gave up his practice and became a whole-time worker and upto the time of his arrest on the 3rd December 1921, he has been work-

ing zealously as General Secretary of the Punjab Provincial Congress Committee. At the last elections he was returned by a large majority as a member of the Lahore Municipal Committee although the rival candidate was Rai Bahadur Lala Milkhi Ram, an influential man who has been a member of the Committee for over 15 years.

Dr. Gopi Chand is a young man, about 35 years old, of quiet unostentatious habits. He is an M. B. B. S. of the Punjab University. On taking his medical degree in 1912, he did not seek Government service and started life as a private medical practitioner at Lahore. Partly, owing to his professional skill and partly, as a result of his sympathetic nature, he has succeeded within the brief period of a decade in building up a practice of which many a senior may well be proud. The inhabitants of that quarter of the town where he resides idolise him. Ever since the day of his arrest, it is said that people have been coming to place a flower wreath on the chair which he usually occupied in his pharmacy. He was elected a Municipal Commissioner at the last elections practically unopposed.

Malik Lal Khan is a little over 40. Gujranwala has been the scene of his previous activities. With the coming in of the Khilafat movement, Malik Sahib also came forward as a devoted worker in a cause which he regards as sacred. During the last two years he has carried on propaganda work on behalf of the Punjab Khilafat Committee of which he was the Secretary at the time of his arrest. A few months before his arrest, gagging orders were served on him but that did not deter him from carrying on his work silently. Nor is this the first time that he has been to jail.

Lala Tirlok Chand B.A., LL. B., is a young man below 30. He suspended his practice as a lawyer in pursuance of the Non-co-operation resolution and joined the Congress headquarters at Lahore. He was a Secretary of the Punjab

Provincial Congress Committee when he was summoned as a witness in Lala Lajpat Rai's trial. As an office-bearer of a Congress organisation, he was precluded from giving evidence according to the resolution passed at the Delhi Session of the All-India Congress Committee. He elected to go to jail rather than act contrary to the behests of the Congress.

IV

Regarding the legal aspect of the conviction of Lala Lajpat Rai and his three friends, I have nothing to say beyond what has already been said in the Press. The entire question hinges on the interpretation of the words, "public meeting." In no sense can the meeting of the Punjab Provincial Congress Committee be called a *public* meeting. In Whentons' Law Lexicon (Quoted in the judgment in the case, Crown versus Asaf Ali, Barrister-at-Law of Delhi 1918.) a "public meeting" is defined as: "a meeting which any person may attend." In his judgment acquitting Mr. Asaf Ali, Mr. G. H. Spence the then Additional District Magistrate of Delhi remarks: "The words 'public meeting' denote a meeting which any person is at liberty to attend in opposition to meetings to which only members of a given league, association or class are admitted." The facts regarding the private character of the meeting of the Provincial Congress Committee are well-known as is the finding of the Court on this point. The conclusion is irresistible that the present is a case of grave miscarriage of justice. The sentence under Section 145 Indian Penal Code was remitted and the one under the Prevention of Seditious Meetings Act was remitted on January 31, 1922.

The following *Communique* was issued by the Punjab Government :—

Orders have been issued by the Punjab Government under section 401, Criminal Procedure Code, remitting the punishment to which Lala Lajpat Rai, Mr. K. Santanam, Malik Lal Khan and Dr. Gopichand were recently sentenced for offences under the Prevention of Seditious Meetings Act.

Instructions will be given to the prosecuting agencies that meetings held in circumstances such as those in which the meeting of the Provincial Congress Committee, at which the above-named were present, was held, do not legally constitute public meetings.

On his release Lala Lajpat Rai was re-arrested for a different offence.

V

India to-day is a vast prison house. Some of the very best of her sons are in jail whither they have gone in the conviction that inspired the poet when he wrote :—

“ Stone walls do not a prison make,
Nor iron bars a cage.”

Great is the power of ideals, greater still is the sustaining power of a living faith. The present is not the only age nor yet India the only country when and where jails have come to be looked upon as places of pilgrimage. If Lajpat Rai, Moti Lal Nehru, Chitranjan Das, Abul Kalam Azad, Sardul Singh, are to-day in jail suffering for their convictions, Lokmanya Tilak set the example years ago. The moving story of the life and sufferings in a South African Jail of the great Master himself needs no recapitulation. Prince Kropotkin, Hampden, Varlain, Galeleo, Socrates, Milton—all good men and true—were goal birds at one time or another of their lives. Indians to-day are drunk with the

philosophy of jail life. Their creed is salvation through suffering. Thoreau wrote "Your castles are in the air, that is where they should be, now put the foundations under them." India's castle of *Swaraj* is in the air to-day, and has been there for some time now, the work of foundation-laying commenced long ago but the formal performance of the ceremony was reserved for Mahatma Gandhi. With the castle in the air on the one hand, and the foundations well and truly laid, the super-structure alone remains to be completed and judging from the present rate it is safe to assert that it is nearing completion.

To a French lady in the 18th century was put the question: "You talk a great deal of Freedom; but where have you found it?" And she replied. "In the Bastille." Morley in his "Life of Gladstone" says that when Gladstone was asked how to get the rule of the best, his reply was "Freedom." For the attainment of that that priceless heritage of Freedom, India is to-day engaged in a non-violent struggle under the lead of one who has been accepted even in Christian America as "the greatest man since Christ."

In the words of Rebindra Nath Tagore, "Into that heaven of Freedom, my God, let my country awake !

ANAND NARAIN SEWAL.

LALA LAJPAT RAI'S ARREST.

HOW IT TOOK PLACE.

A DRAMATIC SCENE.

CALM BEHAVIOUR OF THE CROWDS.

Judging from the correspondence that passed between Mr. K. Santanam, General Secretary of the Punjab Provincial Congress Committee and Major M. L. Ferrar, District Magistrate, Lahore, published *in extenso* below, it is clear that the arrest of Lala Lajpat Rai, President of the Committee and Mr. Santanam was expected. At any rate, Lalaji and Mr. Santanam and other members of the Committee were fully prepared. The meeting was a Committee meeting, attendance being confined only to members of whom less than 40 were present. They met at the Congress Committee's office. After the meeting had commenced, a Congress volunteer came up and informed Lala Lajpat Rai that eight police constables and two Sub-Inspectors were below and desired permission to come up, Lalaji replied "Let them come up by all means." But the police on being informed that they were free to come up, sent for Mr. Santanam who immediately came down. He came down and saw Major Ferrar and Col. Gregson and armed police standing at the door. On enquiry why he had been called, Mr. Santanam was handed over a written order (published below and marked V). He took it upstairs and read it out to the meeting. Thereupon Lala Lajpat Rai asked those who wanted to leave to go away. None stirred from his seat. Even before the commencement of the meeting, Lala Lajpat Rai had tried to dissuade certain people from attending the meeting in view of the fact that probably all would be arrested and no responsible man left to carry on the work. Those asked to desist included Lala

Hansraj and Syed Ata Ulla Shah (both of Jullundur) and Mr. Abur Rashid. Lala Hansraj and Syed Ata Ullah Shah requested to be allowed to attend for the sake of the honour of their town. But to go back to the story of the arrest. Immediately, after Major Ferrar District Magistrate, and Colonel Gregson, the Senior Superintendent of Police, entered the room while the committee was sitting. The District Magistrate said, that he declared the meeting an unlawful assembly and ordered it to disperse. Lala Lajpat Rai who was in the chair, thereupon replied that the considered the meeting lawful and as president refused to disperse it. Major Ferrar addressing Pandit Rambhaji Dutt asked who the speaker was. He was informed by Panditji that it was Lala Lajpat Rai who spoke. Lala Lajpat Rai himself said, "I am Lajpat Rai." Thereupon Major Ferrar said, "I arrest you." Lalaji gladly surrendered himself. The District Magistrate then called out for Mr. Santanam and arrested him. He then asked for Dr. Gopi Chand and arrested him also. The three were taken to a motor car waiting below. Colonel Gregson again went up to the room. Meanwhile the proceedings of the meeting were going on under the presidentship of Pandit Rambhaji Dutt Chaudhri. A resolution congratulating the arrested leaders was passed.

The Senior Superintendent of Police said that the meeting was an unlawful assembly and asked it to disperse. Chaudhri Rambhaji Dutt protested and said that they would not move unless forcibly dispersed. Panditji wanted to explain his position but the police official impatiently said that he did not want to argue and ordered the Police to forcibly disperse the meeting. Pandit Rambhaji Dutt told the members that it should be clearly understood that force had been used in dispersing them. As the members walked downstairs one by one, the police touched each on the back with the hand. When the members came downstairs, Malik Lal Khan was arrested. Malik Sahib at the time of his arrest said "I was waiting for this very opportunity."

The motor car containing Lala Lajpat Rai, Mr. Santanam and Dr. Gopi Chand had already left amid shouts of *Bande Mataram* and *Gandhi Maharaj Ki Jai*. Lalaji, when his motor car departed said, "Goodby friends." Malik Lal Khan was at once taken in a *tonga*. Several hundreds of people were assembled on both sides of the road. The police in large numbers was present and the military had been posted at several places but the crowds maintained a perfectly calm behaviour. Permission was no doubt sought by certain people to observe *hartal* in the city but the Congress officials dissuaded the people from taking that step.

AT THE TELEGRAPH OFFICE.

It will be remembered that immediately after their arrest during martial law, Lala Harkishan Lal and others were taken in the first instance to the telegraph office. The same story was repeated on the present occasion. Lala Lajpat Rai and his comrades were taken to the Telegraph Office and kept waiting there. Meanwhile the Office of the Provincial Congress Committee was locked and sealed for search. Large crowds had assembled on the Mall outside the Telegraph Office. Nobody was allowed to go in. The representative of the *Tribune* sought the permission of the Police official on duty. The official sent in a chit asking if a newspaper man could be allowed to go in. Mr. Keough, the Additional District Magistrate of Lahore, who was present inside refused permission. The leaders were kept inside for about two hours. Lala Lajpat Rai on noticing the crowds outside sent a message asking people to disperse and remain perfectly peaceful. All the four leaders were produced before Mr. Keough. The charge against them is under Section 145 Indian Penal Code. Bail was offered but refused. Dr. Gopi Chand and Malik Lal Khan were first taken in a car to the Central Jail. Lala Lajpat Rai and Mr. Santaram followed in another. The Police demanded a remand up to the 10th but the Magistrate fixed the 7th December for hearing.

LALAJI'S MESSAGE.

While in the Telegraph Office Lala Lajpat Rai sent a message through Lala Raghunath Sahai, Vakil, asking people to maintain peace under even the most provoking circumstances, since non-violence is of the very essence of the Non-co-operation movement. He hoped that people would carry out his wishes.

MACHINE GUNS PRESENT.

Apart from the Police, ordinary and armed, there was Military posted at King Edward Statue and at the Telegraph Office. Two machine guns are also seen inside the Telegraph Office compound along with the military. It is stated that all the four leaders and Mr. Stokes have been put in the same cell.

RESOLUTIONS PASSED.

The following resolutions were passed at the meeting of the Provincial Congress Committee on December 3:—

- (1) Bakhshi Tek Chand's resignation of membership of the Committee be accepted and Mr. Stokes be appointed in his place.
- (2) Resolved that Agha Mohamad Safder be elected Vice-President in place of Dr. Kitchlew. Agha Sabib is to be considered the Senior Vice-President.
- (3) Sardar Sher Singh Gyani be appointed in place of Sardar Sardul Singh.
- (4) Resolved that in view of the present situation the ordinary rules be suspended and the Working Committee be invested with full powers of the Provincial Congress Committee till the next meeting of the latter body. The Working Committee is authorised to deal with finances and to fill up vacancies occasioned by arrest of any of the members. Till the vacancies are so filled up, the remaining members are authorized to act as a Working Committee. The Committee can increase its membership.
- (6) Resolved that in time of emergency the President or the acting President is vested with full powers of the Working Committee as defined in the foregoing resolution. He is also authorized to nominate his successor till the next meeting of the Committee.
- (7) Resolved that the decision of the Executive Council regarding the Central Board of Volunteers be set aside and the Working Committee be requested to appoint a Central Board.
- (8) Resolved that in the opinion of the Committee the application of the Criminal Law Amendment Act (part II) of 1908 was unjustified and unnecessary. The Committee considers that the orders relating thereto are not binding on them and authorises the Working Committee to issue the necessary instructions.

I SHALL TAKE JAIL FOOD."

Before leaving the Telegraph Office, Lala Lajpat Rai told certain friends that his meals should not be sent from home as he would take jail food. All the four leaders are taking Jail food.

“IT IS SAD BUSINESS.”

When the Senior Superintendent of police went up after seating Lala Lajpat Rai, Mr. Santanam and Dr. Gopi Chand in the motor car, Raizadar Hansraj of Jullundur said to him, “We are old friends, we have met again.” Colonel Gregson replied: “It is a sad business.”

“I CANT OBLIGE YOU.”

Similarly, Lala Girdhari Lal of Amritsar asked Colonel Gregson to arrest him. The Colonel said that he could not oblige him just then. On coming downstairs the Colonel saw Lala Girdhari Lal seated with garlands of flowers in his hand. Asked for whom they were meant, Lala Girdhari Lal said, “I am willing to garland you provided you arrest all of us.”

CONGRESS OFFICE SEARCHED.

The office of the Provincial Congress Committee was searched on Sunday. After a search of several hours, the police went away with a number of papers and registers.

(The Tribune.)

PUNJAB PROVINCIAL CONGRESS COMMITTEE MEETING.

MR. SANTANAM AND D. C.

LETTER FROM DISTRICT MAGISTRATE.

MR. SANTANAM'S REPLY.

The following correspondence has been sent to us for publication :—

I.

From

Major M. L. FERRAR, O.B.E., I.A.,

To

T. C. KAPUR, Esq.,

Secretary, Punjab Provincial Congress Committee,
Salim Building, Lahore.

No. 4915, dated the 2nd December 1921,

SIR,

I have received information that a meeting of your Committee has been convened by you to meet at Salim Buildings at 2 P. M., on the 3rd instant. I have received no application or notice from you as required by Section 4 of the Seditious Meetings Act, the meeting being a public one within the meaning of the Act.

Before deciding whether I should prohibit the meeting or not, I would be glad to receive an authoritative statement from you regarding the subjects to be discussed. In this connection I would require an assurance that no subjects other than those detailed by you would be so discussed.

I would be glad if you would give this letter immediate consideration and let me have an answer at your earliest convenience.

I have etc., etc.

(Sd) M. L. FERRAR

Deputy Commissioner, Lahore.

II.

The following reply has been sent by Mr. Santanam, General Secretary, Punjab Provincial Congress Committee :

Major M. L. FERRAR, O.B.E., I.A.

Deputy Commissioner,

Lahore.

December 2, 1921.

SIR,

Your letter No. 4915, addressed to L. Tirlock Chand dated the 2nd December 1921, has been handed over to me. As I am the General Secretary, I have the honour to reply as follows :—

Section Four of the Seditious Meetings Prevention Act requires notice to the District Magistrate or to the Commissioner of Police only for holding or convening public meetings which are defined in Section 3 (1) of the said Act, which runs as follows :—

(3) (1) In this Act, the expression “public meeting” means a meeting which is open to public or any class or portion of the public.

According to this definition the meeting of the Punjab Provincial Congress Committee convened for the 3rd instant at 2 P. M., is not a public meeting as contemplated by Section 3. This meeting is strictly confined to the members of the Punjab Provincial Congress Committee who were elected by the various Congress Committees in the province as provided for in the rules framed by the Punjab Provincial Congress Committee. No person other than the members duly elected and to whom individual notices have been sent can attend the meeting. From this it is absolutely clear that this meeting of the Punjab Provincial Congress Committee is not a public meeting and no application or notice to you or to the Police is necessary.

The agenda of the meeting is mentioned in the notice and I cannot give you any more information on the subject.

I have etc, etc,

(Sd.) K. SANTANAM,

General Secretary,

The Punjab Provincial Congress Committee.

III

From

Major M. L. FERRAR, O.B.E., I.A.,

Deputy Commissioner, Lahore.

To

T. C. KAPUR, Esq.

*General Secretary, Punjab Provincial,**Congress Committee, Lahore.*

No. 4963, dated the 3rd December, 1921.

SIR,

I am desired to acknowledge receipt of your letter of yesterday's date and to say that while I am not prepared to enter into any argument regarding the applicability of the Act to the meeting you have convened, I do not at the same time wish to prohibit any meeting the discussions at which will not touch on subjects likely to cause disturbance or public excitement. It is for this reason that I would again ask you kindly to furnish me with information regarding the matters to come under consideration. I would be glad of an early answer.

I have etc., etc.;

(Sd.) M. L. FERRAR,

Deputy Commissioner, Lahore.

 IV

From

Pandit K. SANTANAM,

*General Secretary,**Punjab Provincial Congress Committee, Lahore.*

To

Major M. L. FERRAR,

Deputy Commissioner, Lahore.

SIR,

Your letter to Mr. T. C. Kapur, dated to-day has been handed over to me as Mr. C. T. Kapur is not the General Secretary. In reply I have the honour to state that, though we do not admit your

For continuation please turn over next page.

NOTE.

As originally printed, pages 9—12 contained the manifesto of the Punjab Provincial Congress Committee.

In view of the fact that the document in question is the subject matter of the charge against Lala Lajpat Rai in the case now *sub-judice* the manifesto has been expunged from the body of the book. Readers will therefore kindly note that the discrepancy in the number of pages is due to this fact.

right under the law to ask for the information you desire, we have no hesitation in telling you that the meeting has been called to consider the present political situation in the province created by the application of the Seditious Meetings Act to certain districts in the Punjab and the notification under the Criminal Law Amendment Act 1908, and to determine the duty of the Punjab Provincial Congress Committee in relation thereto.

I have etc.,

(Sd.) SANTANAM,

General Secretary, Punjab Provincial
Congress Committee.

V

MAGISTRATE'S ORDER.

The following order was served on Mr. K. Santanam, General Secretary of the Provincial Congress Committee on Saturday the 3rd December at about 1.40 P.M.:

The Punjab Provincial Congress Committee has been summoned to meet at Lahore at 2 P.M. this afternoon. I hold this to be a public meeting within the meaning of the Prevention of Seditious Meetings Act. I have been in correspondence with the General Secretary, Mr. K. Santanam, with a view to assisting myself to form an opinion as whether the subjects to be discussed are such as render the prohibition of the meeting advisable. The General Secretary has informed me that the meeting has been called to consider the present political situation in the province created by the application of the Seditious Meetings Act to certain districts in the Punjab and the notification under the Criminal Law Amendment Act, 1908 and to determine the duty of the Punjab Provincial Congress Committee in relation thereto. In my opinion, the aforesaid meeting is likely to promote sedition or to cause a disturbance of the public tranquility and I accordingly prohibit it.

— (Sd.) M. L. FERRAR,

MAJOR,

Deputy Commissioner

LALA LAJPAT RAI'S MESSAGE TO HIS COUNTRYMEN.

Countrymen.—The Provincial Congress Committee meets to-day at 2 p.m. This meeting has been convened under my instructions. This meeting is in every sense a private meeting according to law, and cannot be termed a public meeting. The object of this meeting is that the Provincial Congress Committee, after taking into consideration the present situation, might draw up its programme of work and devise means to maintain peace and order in the Province in the present crisis. The Deputy Commissioner has prohibited the meeting under the Prevention of Seditious Meetings Act, and in the meanwhile, I have

received orders from Mahatma Gandhi that, as far as possible, I should save myself from arrest. The meeting is highly important. The order of the Deputy Commissioner is illegal and "ultra vires," and it seems that the Punjab officials do not care much for law. Under these circumstances, my conscience does not allow me to stop the meeting or to allow it to be held and myself not attend it. I have, therefore, decided to attend the meeting, and get myself arrested, if the District authorities desire to take me into custody. I believe that had he been in that position, Mahatma Gandhi himself would have acted in that manner, and that had he known the latter developments, he would not have advised me, as he has done. I quite realise that I might perhaps have rendered you better service by avoiding arrest at the present stage of our national struggle; but I also believe that for me to save myself from arrest under the present circumstances would be improper. I am sure, you would not like me to act in a manner that might render my conduct liable to be misunderstood. I am not deliberately courting arrest on account of the weakness of my heart. My faith, my conscience, my desire to do my duty—all compel me to attend the meeting. If, under these circumstances, I am committing a blunder, I believe that you, my countrymen, and Mahatmaji will forgive me.

We have decided, that in my absence Agha Mohamed Safdar Sahib, would act as the President of the Provincial Congress Committee. The patriotism and high intellectual attainments of Agha Mohd Safdar are well-known to you; and I believe that under his guidance and leadership all the Congress Committees and all Congress men in the Province would fulfill their duties loyally and bravely.

When I left the shores of America, I knew that I would not be allowed to remain outside the jail for a long time; and on my departure from there, I had told my friends that I would be satisfied if I were allowed to work amongst my people even for six months. But now through the grace of God, I have been enabled to work with you for about 19 months, and I go to the jail with a glad heart, and with the firm belief that whatever we have done, we have done according to our conscience and our God. I have no misgiving or fears in my mind. I am convinced that the path we have chosen is the right path, and our success is sure. I also believe that I shall soon return amongst you and resume my work; but even if that is not to be, I assure you that I shall have nothing to be sorry for when I return to my Creator. I am a weak and frail man, and do not claim to possess the splendid spirituality of Mahatma Gandhi. Some times I am not

able to control my anger, nor can I say that I have never harboured feelings which I ought not to have entertained. But this I can truthfully assert that I have always kept the interests of my country and nation before my mind, and my actions have been directed with a sole eye to the interests of my country. I know that I have made many mistakes in the discharge of my duties, and have sometimes indulged in criticism which might have given offence to some of my countrymen. For all that I beg for forgiveness I hope that they will forgive me especially my Moderate and Arya Samajic brothers.

The position of those of my countrymen who are Government servants is peculiar : and I quite realise their difficulties. I regret that the question of livelihood compels them to act in a manner which is repugnant even to their own feelings. I wish that no non-co-operator should regard those Government servants with contempt or disdain nor needlessly use a harsh word against them.

The success of our movement requires that :—

- (1) There should be complete unanimity between different communities and denominations. We should not disturb that mutual good will and concord even for a religious object.
- (2) There should be no violence in the country. The Government officials are provoking the people in many ways. Courage, patriotism and regard for duty all demand that we should remain non-violent even in the face of the gravest provocation. There is every danger that at the present moment violence might lead to internal dissension, which is bound to ruin us. I, therefore, with the utmost respect and sincerity of purpose, urge on my countrymen to re-train their feelings. They should not have *hartals* or hold meetings over the arrests, nor should they go to the courts. Every person should continue his everyday work with a calm and cool mind, should not disobey the order of the Congress, and should regard it his duty to carry out the orders of the local and provincial leaders. To maintain non-violence and to keep the movement of non-co-operation free from that taint are essential for our success.
- (3) There should be no break in the work of the Congress. The *Khaddar* propaganda should be carried on with increasing vigour and the boycott of foreign cloth should be made complete. On the occasion of the forthcoming visit of His Royal Highness the Prince of Wales there ought to be no public decorations or rejoicings, and no

one should participate in the processions or other functions held in his honour. And, above all, you should act in accordance with the wishes of Mahatma Ganderi.

Youngmen of the Punjab—I want to address a word to you. To pass a university examination is not the “summum bonum” of your life. Any man who models his course of life on a selfish basis is a not a human being; and if in our young age we curb our nobler ambitions and finer emotions and in their place plant baser passions and a desire for luxurious living in our breasts, then also our life is worse than death. I do not wish that you should act in a state of undue excitement. But you should at least do two things: wear *khaddar* and boycott the visit of the Prince.

Women of the Punjab—I know that you, too, are imbued with a spirit of patriotism and a desire to serve your country, and that you would not care if in that service you lose your liberty. Many of you are prepared to go to jail. But the Indian jails are hells upon earth; vice and corruption reign there supreme. I, therefore, request you to give up the idea of courting imprisonment; and direct your energies towards the preaching of Swadeshi and yourself wearing pure Swadeshi clothes. There is one other thing which you can do. You can take care of the young children who are left behind by those who go to jail in the country's cause.

My countrymen, I now bid you good bye. I go to jail in the firm belief that the honour of my beloved country and nation is safe in your keeping. The *Bandemataram* and the Tilak School of Politics are my two children; and those also I leave in your keeping.

Those of my brothers who are in Lahore and have not attended to-day's meeting have done so at my request, so that our work may not be interrupted.

Your well-wisher,

LAJPAT RAI.

5 A. M. December 3rd 1921.

(*The Tribune*.)

PUNJAB LEADERS' TRIAL.

Hearing in Court.

FIRST DAY'S PROCEEDINGS.

Lahore, December 12.

The trial began to-day of L. Lajpat Rai, Mr. Santanam, Dr. Gopi Chand and Malik Lal Khan in the Court of Mr. J. E. Keough, Additional District Magistrate, Lahore. Only a small number of people were admitted inside the Court room including the Press representatives, the relatives of the accused and a few prominent non-co-operation leaders. Mrs. Sarala Devi Chaudbarani and Shrimati Krishan Kumari, wife of Mr. Santanam, were also present. A large crowd was waiting inside the court compound and on the road outside who greeted the leaders with shouts "Bande Matram" as they entered the court buildings in motor cars. As soon as the leaders entered the Court room all the assembled gentlemen stood up in their honor and they were given chairs to sit down. When the leaders had taken their seats all others sat down. All the four leaders were without handcuffs and they were looking quite cheerful. A large number of Police and European Sergeants were guarding the court compound. The Senior Superintendent of Police and a number of Police Officers were present inside the Court room. A large number of police, armed with rifles or heavy brass-mounted lathis and numbering about 150 were posted at the different gates of the district courts and only a small number of persons were admitted into the court compound. A large crowd, numbering about two thousand collected on adjoining roads and remained there throughout the day.

Mr. Herbert, Government Advocate, assisted by L. Shiv Narain, (not Pandit Shiv Narain Shameem, the well-known Advocate of Lahore) Public Prosecutor, appeared for the prosecution; while the accused as Non-co-operators were undefended.

Before the proceedings began, Mr. Santanam stood up and asked the Magistrate to tell them under what section they were going to be tried.

The Magistrate said that they would be proceeded against under section 145, Indian Penal Code, and there was another complaint under section 6 of the Prevention of Seditious Meetings Act as well.

Mr. Santanam.—At least tell us that there is another case. Our warrant is under section 145.

The Magistrate said that they would be tried under section 6 of the Prevention of Seditious Meetings Act first, and he would then proceed with the second charge under section 145.

PROSECUTION EVIDENCE.

MAJOR M. L. FERRAR, DISTRICT MAGISTRATE.

Mr. Herbert.—Since how long is it that you have been the District Magistrate of Lahore, and under what section you put in your complaint?

Witness.—I have been District Magistrate of Lahore, since November 1919, and I have put in my complaint under section 6 of the Seditious Meetings Act of 1911.

At this stage witness began to take the oath which he did not take in the very beginning. There was laughter among the audience.

Mr. Herbert.—Was that Act in force in Lahore, on the 1st, 2nd and 3rd December 1921?

Witness.—Yes.

Mr. Herbert.—Is there a body here called the Punjab Provincial Congress Committee?

Witness.—Yes.

Mr. Herbert.—Did you know that the Provincial Congress Committee held a meeting on the 3rd December and did you receive any information as a District Magistrate that that body was going to hold a meeting.

Witness.—Yes.

Mr. Herbert — Did you correspond with the Secretary as to with what object the meeting was going to be held ?

Witness. — I did correspond with the Secretary of that body with a view to ascertain as to what would take place in the meeting.

Mr. Herbert. — You were satisfied with the answers given to your enquiries ?

Witness. — They were not satisfactory.

Mr. Herbert. — Did you prohibit that meeting ?

Witness. — Yes, I did so.

Mr. Herbert. — Was then the meeting held in spite of your orders ?

Witness. — Yes.

Mr. Herbert — Did you go to the place where the meeting was being held ?

Witness — Yes, I went over there personally.

Mr. Herbert — Did you actually enter the room where the meeting was taking place ?

Witness. — Yes, I did enter the room.

Mr. Herbert — What did you say when you entered the room ?

Witness — I announced to the members present there that the meeting was a prohibited one.

Pt. Santanam. — (To Court). Please ask the witness to speak louder as I cannot hear him.

Magistrate. — I will

The sentence was again repeated.

Pt. Santanam. — That is a lie.

Mr. Herbert. — I object that the prisoner should be so allowed to insult the court. He has no right to speak in that way.

Magistrate. — You have no right to speak anything unless you are called upon to do so.

Mr. Herbert. — Were these four prisoners in that meeting ?

Witness. — Yes.

Mr. Herbert — Did any one of them indicate any inclination to move away ?

Witness.—No. No one showed any inclination to disperse. I also informed them that they were the members of an unlawful assembly and directed them to disperse.

Pt. Santanam.—(To Court). Will you please note down that that was an after-thought.

No reply was given by the court.

Pt. Santanam.—Mr. Magistrate

Magistrate.—Sit down, you may say after he has finished.

Pt. Santanam.—I want to say that you must give me a reply.

Magistrate.—(Vexed). You cannot say anything unless I ask you to state.

Major Ferrar said that he would not be able to give evidence if Mr. Santanam interfered with his statement in that way.

Mr. Herbert.—Did you direct the arrest of the accused ?

Witness.—I directed the arrest of three accused.

Mr. Herbert.—Which are those three ?

Witness.—Lala Lajpatrai, Mr. K. Santanam and Dr. Gopi Chand.

Mr. Herbert.—When did you arrest the fourth accused ?

Witness.—After the meeting.

Mr. Herbert.—Soon after the meeting ?

Witness.—Yes, soon after, downstairs.

Mr. Herbert.—Do you ask the court to deal with the prisoners under Section 6 of the Seditious Meetings Act.

Witness.—Yes.

Malik Lal Khan.—I have not been able to follow anything as to what has passed in the court as I do not know English.

Magistrate.—You will be made to understand just now.

LALA LAJPAT RAI'S STATEMENT.

The Magistrate then called L. Lajpat Rai.

L. Lajpat Rai stood up in his place and replied "Yes."

Magistrate—(To L. Lajpat Rai) You are about to be put on your trial under section 6 of the Seditious Meetings Act, being member of a public meeting which had been ordered by the District Magistrate to be dispersed. I call upon you to show cause why you should not be convicted under section 6 of the Seditious Meetings Act?

La'aji.—You want my statement.

Magistrate.—Yes.

Lalaji.—The complaint....

Magistrate.—One second, please.

Lalaji.—Alright Sir.

After a few minutes, Lalaji was asked to make his statement. Lalaji said:—I do not recognise the authority of this Government and this Court, but I will make a statement of facts and this statement will not be a general statement. The District Magistrate had issued no orders in his first two letters.

Magistrate—What I am to put down, make it in the form of a statement.

Lalaji.—The orders issued by Major Ferrar were not issued by him in his capacity of a District Magistrate, they were all from the Deputy Commissioner of Lahore. The law for the Prevention of Seditious Meetings Act applies to no such polity. The meeting of the Provincial Congress Committee convened on the 3rd December at 2 P. M. was not a public meeting. It was not open to the public or any section of the public. Notice was issued only to the members. Members of the Provincial Congress Committee are elected representatives of the different Congress Committees in the Province, *plus* a few co-opted members—co-opted by name. The Deputy Commissioner was in reply informed of this fact. The meeting was not public or open to the public. Precautions were taken even to exclude the clerks and the *Chaprasies* of the office. At about 2 P. M. on the 3rd December members were invited each of whom was known to me, personally, to meet at an appointed place. At 2 P. M., the meeting informally opened, and the whole business was concluded before Major Ferrar came. Major Ferrar came in with the Senior Superintendent of Police and probably one or two more European Officers and said, "I declare this meeting to be a public meeting. I order you to disperse". He did not say that this meeting was a prohibited meeting, nor did he say that it was an unlawful assembly. Both these statements are after-thoughts. I said in reply: "As President of this assembly, I declare that this is not a public meeting,

that your order is illegal and I refuse to disperse this meeting." Upon this he asked who I was. I think it was Pandit Rambhuj Dutt Chowdhari who said that I was Lala Lajpat Rai. I also said that I was Lajpat Rai. Upon which, he ordered the Superintendent of Police to arrest me. I want to take no advantage of any technical plea. My contention is that the whole proceedings from beginning to end were lawless, and it is another additional reason why I do not recognise this Government. I do not admit that this Government has been constituted by law.

Here Mr. Herbert raised objection that the accused is not stating a fact.

Lalaji.—It is a fact, Mr. Herbert. This Government has brute force personified by Major Ferrar.

Objection was again raised by Mr. Herbert that he would not allow such a statement and he requested the Court not to take down the passage objected to.

Magistrate.—Well, I would not put down such statement.

Lalaji.—You have asked me to give a statement, and it is not my business to see as to whether you put down my statement or not. Well, I was saying that I take a fundamental objection to the constitution of the Government.

Magistrate.—Well; we are not going to do anything with the constitution of the Government.

Lalaji.—Excuse me, I have practised for 40 years as a lawyer, but I have not been able to find any law wherein an accused can be obstructed in his statement by a Magistrate.

Magistrate.—I am not going to hear such a statement.

Lalaji.—Well then I sit down under protest.

Lalaji.—Will you please make a note that you disallowed certain statements? Please also note down the fact...

Magistrate.—If it is a fact?

Lalaji.—Yes, that no one excepting myself made any remarks or made any speech in the meeting. I take the whole responsibility of that meeting upon myself of having convened, having presided and having conducted it.

PANDIT SANTANAM.

Magistrate.—Pandit Santanam, you are charged of the same offences as Lala Lajpat Rai for having taken part in a meeting which was convened in contravention of Section 4 of the Seditious Meetings Act. Why should you not be convicted under Section 6 of the Seditious Meetings Act?

Panditji.—May I ask by way of information as to when this complaint was put before you?

Magistrate.—To-day, just 5 minutes before you came in the Court.

Panditji.—Well, take down my statement, please. As a non-co-operator, I refuse to recognise this Court.

Magistrate.—I think that is all.

Panditji.—No, there is one word more. The proceedings of Major Ferrar prior to the institution of the present case as detailed by Lala Lajpat Rai and also the fact that this complaint has been made 9 days after my arrest, confirm me in my belief that it would be foolish to expect the present Government to even pay a decent heed to the laws promulgated by itself. Now, does that make the statement complete?

Magistrate.—Is that all?

 DR. GOPI CHAND.

The Magistrate charged Dr. Gopi Chaud with the same offence and asked why he should not be dealt with under Section 6 of the Seditious Meetings Act.

Dr. Gopi Chand.—Believing that no justice can ever be meted out to Indians in such Courts, I do not wish to make any statement.

 MALIK LAL KHAN.

Magistrate.—You do not know English?

Malik.—I do not know English, and I am growing more suspicious of the honesty of the Court. I do not know what has been going on in the Court. I want to hear the whole of Mr. Ferrar's statement as I have not even the least faith in this Court.

Magistrate.—Do you want to give any statement?

Malik—First I must hear the statement of Mr. Ferrar.

Mr. Shiv Narain began to translate Major Ferrar's statement but as he could not translate it properly he began to explain and find fault with the accused.

Lalaji.—Please tell Mr. Shiv Narain that his duty is that of a translator only.

Pandit Santanam.—Let him make himself ridiculous (Roar of laughter).

After that Mr. Keough began to translate the statement to Malik Lal Khan. He too failed in doing so and the statement was given over to Lala Devi Dass, Court Inspector, who translated the statement.

Magistrate.—Lal Khan do you want to give any statement?

Malik.—I refuse to give any statement.

CHARGE UNDER SECTION 145 I. P. C.

The Court then proceeded to deal with the second charge against the accused under section 145 Indian Penal Code and Major Ferrar's examination was once more taken up.

MAJOR FERRAR AGAIN EXAMINED.

Mr. Herbert.—Can you say whether any of the accused present here know you personally?

Witness—Dr. Gopi Chand and Pandit Santanam know me to be District Magistrate but I can not say about the rest two.

Mr. Herbert.—Is the Seditious Meetings Act in force in Lahore?

Major.—Yes.

Mr. Herbert.—Was it in force on the 3rd of December?

Witness.—Yes, it was enforced late in November.

Mr. Herbert.—Did you receive information that the Punjab Provincial Congress Committee was going to hold a meeting?

Witness —I received a copy of the notice meant or the press from the Superintendent of Police.

Mr. Herbert.—Did you inform the gentleman who was going to convene the Meeting?

Witness.—Yes, I corresponded with the gentleman whose signature appeared at the bottom of the notice.

Mr. Herbert.—What sort of meeting was it that you had gone to prohibit?

Witness.—I did not wish to prohibit any meeting the discussion at which would not touch on subjects likely to cause disturbance or public excitement.

Mr. Herbert.—Was this order written in your own handwriting?

Witness —Yes it is in my own handwriting.

Mr. Herbert.—You signed that as a Deputy Commissioner or a District Magistrate?

Witness —As a District Magistrate. It was written at my house and intended to be sent in original to the addressee.

Mr. Herbert.—Not being satisfied with the reply what action did you take?

Witness.—The second letter I received from the General Secretary at about 1 P.M.

Mr. Herbert —Is that the order served in original?

Witness.—Yes, this is the order served in original on the General Secretary.

Mr. Herbert.—Is that your handwriting?

Witness —It is my own, and is signed by me, Major Ferrar, as District Magistrate and it also bears the seal of the District Magistrate.

Mr. Herbert.—How is it that your name appears in type in the order?

Witness —The order was dictated to a clerk who was told to put up 3 copies and he did so typing my name below with my designation as a District Magistrate.

Mr. Herbert.—So it was a mistake.

Witness.—I noticed my name in type, crossed it out and signed the order with my name in ink.

Mr. Herbert.—What reasons, had you to believe that the meeting was a seditious one ?

Witness.—I had reasons to believe that the meeting would be held for the purpose of promulgating directions to members of the Congress party in this Province to break, somehow or other the law. I formed this impression after reading the proceedings of the All-India Congress Committee held at Delhi, on the 4th of November. I was strengthened in this opinion from the statements made to me by Magistrates and other responsible persons in Lahore and from information received from the Superintendent of Police, Ludhiana. All visitors whom I questioned informed me that it was a general belief in Lahore that this meeting would advocate what is called Civil Disobedience. It was my clear duty to prevent such a meeting. The answer of the General Secretary clearly shows that the meeting was held to consider the present political situation and to determine the duty in relation thereto of his Committee.

Mr. Herbert.—You say that it was your duty to disperse that meeting, did you pass any order to that effect ?

Witness.—My order prohibiting the meeting was signed about half past one and sent for immediate service on the Secretary. I subsequently heard that the meeting was taking place. I proceeded to the Sleem Buildings with the senior Superintendent of Police and other police officers and men. On entering the room with the Senior Superintendent, I found about 40 persons seated on the floor. To the best of my belief, I said that "this is a prohibited meeting. The persons here are members of an unlawful assembly. I call upon you to disperse." Accused No. 1, Lala Lajpatrai, whom I did not know at the time stood up and stated that he was the president of the meeting and said my order was illegal and he went on to say that he would not direct those present to disperse, but he had no objection if anyone wished to go. On this most of the persons present shook their heads or made some other signs to show that they refused to make use of his permission.

Mr. Herbert.—When you went in, did any one of them get up ?

Witness.—Lala Lajpatrai stood up and all the rest resumed their seats (laughter).

*Witness continuing said :—*One gentleman, Pandit Ram Bhuj Dutt Chowdhari, had gone upstairs in spite of the warning, the words of which I do not remember, given to him in the street, I enquired who the president was. I was informed by Chowdhri Rambhuj Dutt that he was Lala Lajpatrai. I ordered his arrest

for being a member of an unlawful Assembly and refusing to disperse. I also ordered the arrest of Mr. K. Santanam, and Dr. Gopi Chand. The 4th accused, Lal Khan, was also present. I ordered his arrest subsequently. All these persons had refused to disperse.

Mr. Herbert.—Did you see Lal Khan in the room where the meeting was held?

Witness.—Yes.

Mr. Herbert.—Was the meeting actually being held when you went into the room?

Witness.—Meeting was being held in the room and they were sitting in circle.

Mr. Herbert.—Were there any tables in the room?

Witness.—Tables and chairs were placed in the adjoining room.

Mr. Herbert.—Was any body sitting at any of the tables?

Witness.—There was a man, probably a clerk, but I am not certain whether the clerk was sitting there when I entered the room or he came subsequently.

Magistrate.—Does any one like to cross-examine the witness?

Lalaji.—As non-co operators, no one wants to cross-examine any witness?

Lalaji.—Please note that chairs and tables were in another part of the room where a clerk was sitting.

Witness.—Yes, tables and chairs were in another part of the room divided by arches and pillars from the main room.

Lala Shiv Narain. Public Prosecutor, then proceeded to explain in Urdu the statement made by Major Ferrar for the information of Malik Lal Khan. When he had spoken for a few minutes, Malik Lal Khan said that he knew Major Ferrar was the District Magistrate of Lahore.

Lala Shiv Narain said to the Magistrate that the court should note down what the accused had just said.

At this stage, Lala Lajpatrai objected to Lala Shiv Narain's translating the witness' statement in Urdu, and said that he had no business to proceed with the translation: either he should be sworn as an interpreter or he should not read the statement.

Mr. Santanam.—Let him be ridiculous (Laughter)

The Magistrate then proceeded to translate the statement but after a few minutes, Lala Devi Das, Court Inspector, was sworn in as an interpreter, and he read out the translation of the statement.

When Lala Devi Das had finished, the Magistrate asked Malik Lal Khan whether he wanted to cross-examine the witness.

Malik Lal Khan said that as a non-co-operator he would not cross-examine any of the witnesses.

At this stage, the Court adjourned for half an hour.

AFTER LUNCH.

Re-assembling at 3-15 P. M., the Court proceeded with the examination of Col. Gregson, Senior Superintendent of Police, Lahore the second prosecution witness in the case

COL. GREGSON, SENIOR SUPERINTENDENT OF POLICE EXAMINED.

Mr. Herbert.—Did you accompany the District Magistrate to the place where the meeting was being held?

Witness.—I accompanied the District Magistrate on the afternoon of the 3rd December to the place where the Provincial Congress Committee's meeting was being held.

Mr. Herbert.—Kindly narrate what occurred there.

Witness.—I arrived there soon after at 2 P. M., and the District Magistrate, Major Ferrar, informed me that a meeting was assembled upstairs. He further said that as the meeting had already been prohibited by him the present meeting, therefore, constituted an unlawful assembly. The District Magistrate ordered it to disperse, whereupon the President of the meeting refused to adjourn the meeting.

Mr. Herbert.—Did the District Magistrate give you any order for dispersing?

Witness.—Yes, the District Magistrate gave the order to disperse the meeting and it was then that the President refused to disperse it.

Mr. Herbert.—When you entered the room, these gentlemen were seated on the ground?

Witness — Yes, they were seated on the ground. One gentleman Lala Hansraj, came in from the adjoining room.

Mr. Herbert — When the President asked the members to disperse, did any of the members show signs to disperse ?

Witness.—No, there was a general murmur to refuse to obey his orders.

Mr. Herbert.—What did the Magistrate do then ?

Witness —The District Magistrate ordered the arrest of the President.

Mr. Herbert.—Anyone also arrested excepting him ?

Witness.—I did not know the names of the two other men arrested.

Mr. Herbert.—Did you arrest anyone else when you came downstairs ?

Witness —I did not arrest anyone else.

Mr. Herbert.—Was Lal Khan arrested in your presence ?

Witness.—No. I handed over prisoners and came back. A few yard from the entrance I overtook my car. Choudhri Rambhuj Dutt who was hurrying along the pavement in the direction of the Committee room met me. I informed him that the meeting had been prohibited. This fact he apparently knew (this I gathered from what he said), and he told me that the meeting was going to be held. He hurried on to join.

Mr. Herbert.—When you accompanied the District Magistrate, Pandit Rambhuj Dutt was inside the room ?

Witness.—Yes.

Mr. Herbert.—When you handed over the prisoners, what did you do then ?

Witness.—I returned upstairs to carry out the District Magistrate's order to disperse the meeting.

Mr. Herbert.—At that time the meeting was still going on ?

Witness.—Yes, and the person who addressed me was Chowdhari Rambhuj Dutt. I take it that he assumed the Presidentship.

Mr. Herbert.—When at the second time you went up did you see anybody else going up ?

Witness.—None, excepting policemen.

Mr. Herbert.—Can you say whether before you went there, you had deputed any police officer to inform the meeting that it was prohibited?

Witness—Soon after I passed the Saleem Buildings, I saw number of Congress people at the entrance of the buildings. I had sent a policeman to the police station to have a posse of police at the door.

Mr. Herbert.—Did you know whether any order was issued to prohibit the meeting?

Witness.—Of course the meeting was prohibited though I did not know at the time, whether any orders were actually served or not.

Lala Devi Das, Court Inspector, translated the statement of Colonel Gregson into Urdu for the information of Malik Lal Khan.

The accused refused to cross-examine the witness.

CASE ADJOURNED.

The court then rose for the day, and the case was adjourned until the 16th instant, when the remaining prosecution witnesses will be examined. The Magistrate said that from the 16th he would go on with the case until it was finished.

A very large number of people were waiting inside and outside the court compound on both sides of the road to have a look at their respected leaders. To their great disappointment, however, the motor car in which the leaders were sitting was taken by another way to avoid the crowd. In spite of this manœuvre on the part of the police, many men overtook the car.

Shouts of *Bandematarm Mahatma Gandhi ki jai, Lala Lajpat Rai ki jai* went up from the crowd. The leaders who were looking serene and cheerful as ever, acknowledged the respectful homage of the people with folded hands.

Thus ended the first day of the trial.

SECOND DAY'S PROCEEDINGS.

HEARING IN JAIL.

PROSECUTION EVIDENCE CLOSED.

A Witness Refuses to give Evidence.

Hearing was resumed in the case against Lala Lajpat Rai, Mr. K. Santanam, Dr. Gopi Chaud and Malik Lal Khan on Friday, the 16th December in the Central Jail before Mr. Keough, Additional District Magistrate. By 12 o'clock a large crowd, including some prominent non-co-operation leaders, had gathered outside the Jail. Pandit Rambhuj Dutt Chaudhri as President of the City Congress Committee, inquired from Mr. Keough, the trying Magistrate, as to how many people he would allow inside the room where the trial was to take place, to which the Magistrate replied that he would not allow more than twelve people, including the relatives of the accused and press reporters. On further inquiry the leaders were told that of the twelve persons who would be permitted to be present at the trial, eight would be relatives of the accused and four press reporters. On this Lala Duni Chand and others decided to refrain from attending the trial under protest, and advised the people to go back to their homes. The local vernacular press reporters also did not attend the proceedings under protest. Only three persons were present at the trial, the representative of the "Civil and Military Gazette" the representative of the Associated Press and Lala Raghunath Sahai, Vakil, besides the accused, the Crown counsel and a couple of police officers.

As before, Mr. Herbert, Government Advocate, and Lala Shiv Narain, Public prosecutor, appeared for the prosecution; while the accused were undefended.

Before the proceedings began, Lala Lajpat Rai stood up and said:—Before the proceedings begin I protest, Sir, against the case

being held within the precincts of the Jail. This is unheard of in the civilised world. But India is outside the pale of civilisation. In fact the proceedings are being held within closed doors.

Mr. Santanam :—This is trial in camera.

POLICE SUB-INSPECTOR'S EVIDENCE.

Aziz-ud-din, Sub-Inspector of Police, Anarkali, P. W. 3, was the first witness examined. Witness stated :—On the 3rd December I was given an order to serve on Mr. K. Santanam, General Secretary, Provincial Congress Committee. This is the order, Ex. P. C. I went to the office of the Provincial Congress Committee. I served the order at 1-40 P.M. on Mr. Santanam, whom I met below the office. He was sent for and came out of a room on the ground floor. The endorsement in red ink was recorded by Mr. Santanam. This copy of the Constitution of the Indian National Congress, Ex. P. D. was given to me by the Office Superintendent of the Punjab Provincial Congress Committee on 8th December 1921. I received these papers, Ex. P. M. 1-4 (typed copy of the manifesto over the signature of Lala Lajpat Rai) from Mr. Pearay Mohan, Assistant Editor of the *Tribune*.

No cross-examination by the accused.

Mr. Pearay Mohan was next called for evidence, but he was not present.

LALA RAM PRASHAD.

Lala Ram Prashad, Joint Editor of the "*Bandemataram*," P. W. 4, was next examined. Witness stated :—Ex. P. F. is a copy of the special issue of the *Bandemataram*. It is dated the 6th December but it was published on the 4th December. I have not brought the original manuscripts of the message of Lala Lajpat Rai, the manifesto and the resolution of the Punjab Provincial Congress Committee. The original of the message issued by Lala Lajpat Rai has been destroyed by me. The resolutions were dictated to me by a messenger sent by the Provincial Congress Committee. Lala Lajpat Rai is the editor of the *Bandemataram*. The resolutions of the Congress Committee are usually published in the *Bandemataram*.

A BREEZE.

At this stage, Mr. Herbert said that that he wanted to draw the attention of the Court that something had been suggested by the accused to the witness.

Lala Lajpat Rai :—It is false.

Mr. Herbert :—I heard it distinctly.

Mr. Santanam :—You are very fond of the word 'lie.'

Mr. Herbert :—When you are confronted with liars, what else have you got to do?

Continuing the witness said, Ex. P. E. is signed by Lajpat Rai, I do not know in whose handwriting the endorsement to Mr. Santanam, the letter Ex. P. G. is. I do not remember the name of the person who dictated the resolutions to me. No disclaimer has reached our office in respect of the articles Ex. P. F., the special issue of the *Bandemataram*.

No cross-examination by the accused.

At this stage Lala Lajpat Rai said :—I think I can save a lot of your time and public expenditure. I admit my signature on the manifesto and the authorship of the message published in the special issue of the *Bandemataram* dated the 6th December.

The court made a note to that effect.

LALA TRILOK CHAND KAPUR.

Lala Trilok Chandra Kapur, Secretary Punjab Provincial Congress Committee, Lahore, was next called.

On the Court's asking him to take the oath. Lala Trilok Chand said :—As a Non-co-operator my creed is to tell the truth and I will speak the truth.

Magistrate :—Don't laugh! when you are a witness. It is a serious matter.

Lala Triloka Chand :—I decline to answer any questions put to me in accordance with the resolution passed at the Delhi session of the All-India Congress Committee regarding Civil Disobedience. My conscience also does not allow me to do so.

Mr. Herbert drew the attention of the Court to sections 64 and 65 of the Cr. P. C.

At this stage Malik Lal Khan interrupt'g said :—Mr. Magistrate, have I permission to say my *Namaz*.

Magistrate :—You will be allowed to say your prayers at 2 P.M.

Malik La' Khan :—To-day is Friday. I must have my prayers at 1-30.

Magistrate :—Alright, you can do so.

(Malik Lal Khan thereupon began to say his prayers in one corner of the room while the proceedings continued.)

Mr. Shiv Narain :—(To the witness) Have you brought the papers you were asked to bring ?

Witness :—I am not ready to answer any of your questions.

At this stage the Court rose for lunch.

AFTER LUNCH.

LALA TRILOK CHAND ARRESTED.

When the Court re-assembled after lunch the Magistrate addressing Lala Trilok Chand said :—I give you another opportunity to reply to questions put to you.

Lala Trilok Chand :—I am sorry I cannot answer your questions.

Magistrate :—And you decline to produce the documents asked for ?

Lala Trilok Chand :—Yes, Sir.

The Magistrate then asked Lala Trilok Chand to shew cause why he should not be prosecuted under sections 175 and 179 I. P. C. for refusing to answer questions put to him.

Lala Trilok Chand :—I have nothing to say, but if permitted I shall put in a written statement.

The Magistrate recorded an order directing the prosecution of the witness in the Court of Mr. Keelan and offered to release him on bail.

Mr. Trilok Chand refused to furnish bail.

The Magistrate ordered that Mr. Trilok Chand be sent to the lock-up and the papers be produced in the Court of Mr. Keelan on the next day.

MR. PEARAY MOHAN.

Mr. Pearay Mohan, Assistant Editor of the "Tribune," next gave evidence. Witness stated :—I produce copies of the issues of

the *Tribune* dated the 8th September, 6th November and 6th December 1921, Ex. P. H. P. J. and P. K. Exhibit P. E. (1 to 4) is the original of the manifesto published in the *Tribune* of the 6th December at Page 2 Col. 4, and 3, Col. 1. The original manuscript was brought by some messenger, probably sent by the Provincial Congress Committee. I do not remember the date on which the original, Ex. P. E. was received in our office. The resolutions of the Punjab Provincial Congress Committee published in the *Tribune* of the 6th December at Page 2 Col. 2 were translations made by our office from the *Bandematarum* of the 6th. Lala Lajpat Rai's message published in the "*Tribune*" of the 6th December at Page 3, Columns 2 and 3 is translation taken from the "*Partap*" of the same date. The report headed "*Lala Lajpat Rai's Arrest. How it took place*" etc, etc, published at Page 2 Columns 1 and 2 is based on account furnished by our representative and on other sources. The account regarding the proceedings of the Provincial Congress Committee meeting is based on hearsay information, as our representative was not allowed to attend the meeting. The report was written partly by Mr. Anand Narain Sewal, another Assistant Editor on the staff of our paper. I did not contribute that particular part—the first portion of the report. As far as I am aware no disclaimer has been received in our office in respect of any of the articles published in the "*Tribune*" of 6th December at Pages 2 and 3, or in respect of any of the Associated Press telegrams regarding the proceedings of the All-India Congress Committee published in the "*Tribune*" of the 6th November or in respect of the report of Lala Lajpat Rai's speech published in the "*Tribune*" of the 8th September.

No cross-examination by the accused.

THE CONGRESS CONSTITUTION.

Duni Chand, Proprietor, Punjab Central Press, was the next witness examined. He stated—The rules of the constitution of the Indian National Congress organisation, of which Ex. P. D. is a copy, were printed at my press at the instruction of the Punjab Provincial Congress Committee. They paid for it.

No cross-examination by the accused.

AN INSPECTOR OF POLICE.

Chaudhri Ram Chand, Inspector of Police, Anarkali, next gave evidence. He stated:—On December 4 I searched the office of the

Pnnjab Provincial Congress Committee. In the course of the search I found the letter marked as Ex. P. G., and the minutes of the proceedings.

LALA LAJPAT RAI'S TRIAL.

Proceedings of the Congress Committee of 29th November
Ex. P. M.

No cross-examination by the accused.

Din Moharamad, Head Constable, No. 235, Kotwali, Lahore city, was the last witness examined to day. He stated — On 3rd October, 1921 there was a meeting of the Congress and Khilafat Committees held at Mohalla Jalotian. I attended that meeting and took notes of the proceedings which are entered in my Diary Ex. P. O.

No cross-examination by the accused.

WRITTEN STATEMENT OF ACCUSED.

Mr. Herbert, Government Advocate, at this stage informed the court that he closed the prosecution evidence in the case under Section 6 of the Seditious Meetings Act.

The Magistrate made a note to that effect and inquired from the accused if they would like to put in a written statement.

Lala Lajpat Rai.—Am I to suppose that the prosecution evidence is closed ?

Magistrate.—Yes, Mr. Herbert says he has closed the evidence.

Lal Lajpat Rai —In a summon's case whatever the prosecution has to say must be finished before the accused is called upon to give a statement.

Lala Lajpat Rai then read to the Magistrate Section 242 clause I of the Criminal Procedure Code.

Mr. Herbert—The contrary is the case.

Magistrate.—Are you putting in any defence ?

Mr. Santanam.—I want to know what is the case the Government Advocate is putting forward. Let us know what the case is.

Magistrate.—The case is under section 6 of the Seditious Meetings Act.

Lala Lajpat Rai.—Are we to guess what the Government Advocate is going to argue ?

Magistrate.—I want to know whether you would produce defence witnesses.

Lala Lajpat Rai.—We would not put in any defence witness.

Magistrate.—Will you put in any written statement ?

Lala Lajpat Rai.—We shall put in after the prosecution has made its arguments.

Mr. Santanam.—Will the court enlighten me whether section 6 of the Seditious Meetings Act has any relevancy to the report of the meeting at Mohalla Jalotian ?

Magistrate.—Well, you will hear that in the arguments of the Government Advocate.

The case was then adjourned to Monday, the 19th instant, when the Government advocate will address arguments.

THIRD DAY'S PROCEEDINGS.

HEARING IN JAIL.

CASE UNDER SECTION 145 I. P. C.

The adjourned hearing in the case against Lala Lajpat Rai, Mr. K. Santanam, Dr. Gopi Chand, and Malik Lal Khan was resumed on Monday the 19th December before Mr. Keough, Additional District Magistrate, in the Central Jail. Besides the accused and the Crown Counsel, only four press representatives were present and none from the public attended the trial. As before, Mr. Herbert, Government Advocate, assisted by Lala Shiv Narain, Public Prosecutor, represented the prosecution while the accused were undefended.

PROSECUTION EVIDENCE.

The court proceeded to record prosecution evidence against the accused in the case under Section 145, Indian Penal Code. The same evidence was repeated as given before in the case under Section of the Seditious Meetings Act; and the witnesses who were examined were Major Ferrar, District Magistrate, Lahore, Mr. Aziz ud-Din, Sub-Inspector of Police, Anarkali, and Paudit Piare Mohan, an Assistant Editor of the "Tribune."

There was no cross-examination by the accused.

QUESTION OF ADJOURNMENT.

The Magistrate then called Lala Lajpat Rai and said :—" Were you President of the Punjab Provincial Congress Committee held at the office of the Committee on 3rd December 1921 ?

Lala Lajpat Rai —We want one day's time to prepare our statement. We have not as yet decided whether we will give any statement. We want some documents from outside.

Mr. Herbert objected to any adjournment.

Lala Lajpat Rai.—I want you, Sir, to understand my position clearly. We have not yet decided whether we shall answer any questions or make any statement. No court can compel us to answer questions.

Magistrate.—As I understand the case, we give you a day to consider. On the day after to-morrow you will either put in a statement or answer questions or decline to answer questions or whatever you decide upon.

Lala Lajpat Rai.—We are not going to argue the case at all. We want to see the files of the *Bondematram* and *Tribune* for November and December. We want your permission because Jail authorities might not allow us to see the files. We want also to consult some lawyer friends. We want your permission also for this, as we were told the day before that no legal practitioner can see the accused for more than half an hour. I would like to see Bakshi Tek Chand and Kanwar Dalip Singh, Mr. Santanam wants to see his brother, and Malik Sahib would like to see Rana Ferozs Din and Moulvi Abdul Qadir; and Dr. Gopi Chand, Lala Raghunath Sahai.

The Magistrate made a note to this effect and said that the time for the consultation of the lawyer friends should be from 12 to 4 to-morrow the 20th.

Mr. Santanam.—I want to suggest that it would be better if you adjourn the case until the 22nd.

Mr. Herbert.—I object to the putting of a longer date. The holidays are coming and there will be only one day left as the Courts will be closed on the 23rd. I know with what object they are doing this.

Mr. Santanam.—What object; I also know with what object you want not to give us a date.

Mr. Herbert.—We are both wise then.

The case then stood adjourned until 1 P. M. on the 21st

(*The Tribune*.)

FOURTH DAY'S PROCEEDINGS.

HEARING IN JAIL.

THE WRITTEN STATEMENT.*

Hearing in the case of Lala Lajpat Rai, Pandit K. Santanam, Dr. Gopi Chand and Malik Lal Khan was resumed on the 21st December before Mr. Keough, Additional Magistrate, at the Central Jail. As a result of the order of the High Court, nearly 70 men including some members of the Bar were present. The Court was held in the open air under a tent. Mrs. Santanam and Shrimati Lajjiawati, Principal, Kanya Mahavidyala Jullundhar, were also present.

Mr. Herbert, Government Advocate, and Mr. Shiv Narain, Public Prosecutor, appeared for the Crown, while the accused as usual were undefended.

The accused were sitting on chairs placed in the middle. The proceedings then commenced.

LALA LAJPAT RAI.

Magistrate.—Mr. Lajpat Rai you will put in a written statement;

Lalaji.—Well, I have a written statement and I decline to show it to anybody before I read it.

Mr. Herbert.—If Lala Lajpat Rai will give a guarantee as to what is given in the statement is relevant and there is no irrelevant matter and also it does not preach sedition among the people here. I would allow him to read his statement.

Lalaji.—My statement does not contain any sedition. I do not know the definition of "irrelevant," when all the speeches are recorded, why should not this one?

Magistrate.—First let me see the statement and then you may read it. (After consulting a book) the accused must show his statement before he reads it out.

Mr. Herbert.—Then take down his verbal statement if he wants to give any.

Magistrate.—I do not know what object will be served by that. If the accused does not show his statement, then he will give verbal statement from the material he has got down in his statement.

*The written statement of Lala Lajpat Rai is published on page 48.

Mr. Herbert.—He must not go beyond limits, if he has to give verbal statement. He has also answered to the questions put by the court. I object to Mr. Sleem's having a controversy with the accused.

Lalaji.—I protest against this procedure of the court. I do not mean any disrespect to the court nor Mr. Sleem, but I like to say that there have been many political cases in the Province where such controversies have happened, why do you take exception to this case?

Pandit Santanam.—I would like to join in this protest because I do not want to take advantage of any sort of help given on my behalf whether at my instance or anybody else's.

Magistrate.—Mr. Santanam, I am seeking help not for you but for the court.

Magistrate.—Mr. Lajpatrai, were you the President of the Punjab Provincial Congress Committee held in Saleem buildings on the 3rd December 1921.

Lalaji.—I am sorry I cannot answer any question put by the court. This means no discourtesy to the court, but is in accordance with the practice followed by the non-co-operators throughout India. The statement which I am going to make or put in contains all the facts bearing on the case.

Magistrate.—Well I shall let you read that statement out, but unless it is handed over to me first, I am sorry I cannot allow you to read that.

Lalaji.—Alright. I hand you over the statement.

Magistrate.—(After perusing the statement) I am not going to allow you to read out this statement. This is not the platform to indulge in political speeches.

Lalaji.—This is a political case.

Magistrate.—Quite so, I am not concerned with the doings of people other than those who are concerned with the case. I am not going to allow you to read this part of the statement.

Lalaji.—I am not going to read anything at all. I leave the document to you.

Mr. Herbert.—If the press want that statement will you (court) see that part of the statement will be cut-off?

P. Santanam.—Mr. Herbert wants to establish a Government here. I do not know whether he or the court has any right to cut off the statement written by anybody. Mr. Herbert is going to overrule the world. He won't allow anything to go to the press (Laughter).

Magistrate.—I have exercised this power, and the court can cut off any part of the statement of the accused.

P. Santanam.—At the instance of Mr. Herbert.

PANDIT SANTANAM.

Magistrate.—Mr. Santanam, were you the General Secretary of the Punjab Provincial Congress Committee before your arrest on the 3rd December 1921.

Pandit Santanam.—I am sorry I cannot make any statement as I have already stated that I do not recognise this court. And if for no other reason, then because I do not want to shock the sentiments of Mr. Herbert, so loyal and innocent. (Rear of laughter).

DR. GOPICHAND.

Magistrate.—Did you attend the meeting of the Punjab Provincial Congress Committee held on the 3rd December in the Sleen buildings?

Dr. Gopi Chand.—In view of the statement made by me in the other case, I am sorry I cannot add anything more.

Mr. Herbert.—I presume by that statement of Dr. Gopichand that he intends to answer no questions.

Magistrate.—Yes.

MALIK LAL KHAN.

Magistrate.—Did you attend the meeting held on the 3rd December 1921 in the office of the Punjab Provincial Congress Committee?

Malik Lal Khan—You address Lala Lajpat Rai as President of the meeting, Pandit Santanam as General Secretary and Dr. Gopichand as Secretary, but how do you address me?

Magistrate.—I have only written Lala Lajpat Rai, Pandit Santanan and Dr. Gopichand.

Malik Lal Khan.—What should I state before this court? I do not recognise this court or the Magistrate nor do I consider your position to be that of Magistrate.

Magistrate.—Say what you have to say in connection with the question asked.

Here the Magistrate told Mr. Sleem that his object in calling him there was that he should argue the case on the next day on behalf of the accused. Mr. Sleem agreed to do so and to attend the court at 11 o'clock, on the 22nd December.

Magistrate.—Lala Lajpat Rai, Pandit Santanan, Dr. Gopichand and Malik Lal Khan, you are charged under Section 145. Indian Penal Code for holding an lawful assembly. Do you plead guilty?

Lalaji.—We plead nothing.

P. Santanam.—Same.

Dr. Gopichand.—Same.

Malik Lal Khan.—Same.

Magistrate.—Do you wish to recall the Prosecution witnesses for cross examination.

Lalaji.—No.

Magistrate.—None of the accused.

Lalaji.—None.

Magistrate.—Will you give any defence?

Lalaji.—Nothing more.

Lalaji.—Will you please let me have a copy of the record?

Magistrate.—Entire record?

Lalaji.—Yes, Sir.

Magistrate.—Alright.

Mr. Herbert.—Will you kindly expunge those portions of the Written statement.

Magistrate.—Yes, it will be done.

The case was adjourned to the next day, the 22nd instant.

FIFTH DAY'S PROCEEDINGS.

HEARING IN JAIL.

ARGUMENTS HEARD.

GOVERNMENT ADVOCATE AND AMICUS CURIA.

The case of Lala Lajpat Rai and others was taken up again on the 22nd December 1921 at the Central Jail. As on the previous day the court was held under the tent within the Jail. Nearly 70 persons attended the Court among whom were members of the Bar, Mrs. Santanam Shrimiti Parbati and others. Mr. Herbert, Government Advocate and Mr. Shiv Narain, Public Prosecutor, appeared for the Crown while the accused were undefended.

The proceedings opened at 11 A.M.

The Magistrate asked Mr. Herbert, Government Advocate, to argue the case.

MR. HERBERT.

The accused are charged under Section 6 of the Prevention of Seditious Meetings Act and Section 145 of the Indian Penal Code. The law requires in this particular case that the accused should be called upon why they should not be convicted under the above charges. Lala Lajpat Rai, the first accused should make his statement in full and the rest should give short statements, because Lala Lajpat Rai is their spokesman. I think they are labouring under a very great mis-apprehension as to what is law. Their contention is that the Deputy Commissioner had no right to prohibit that meeting and secondly, he did not say that the meeting was a prohibited or proscribed meeting and that it was not a public meeting. I have to prove that the accused must be charged under Section 145 Indian Penal Code assuming, even what they say is true.

Continuing, Mr. Herbert said that under the Seditious Meetings Act, no meeting can be held until previous permission is obtained for holding that meeting by its convener. Assuming that the Deputy Commissioner did not say that it was a prohibited meeting, but it was a prohibited meeting held in the proclaimed area and without the permission of the Deputy Commissioner. The accused had said that he did not want to take advantage of any technical point and said nothing more and did not define what is a public meeting.

Pandit San'anam.—Will you please make a definition as you refer to my statement in which I said that I do not recognise this court.

Mr. Herbert.—I am not speaking about your statement. I am speaking about Lala Lajpat Rai's statement. (Addressing the court) Lala Lajpat Rai is their spokesman, others are mere puppets.

Pandit Santanam.—I must object to this. I am just bringing this to the notice of the Court that he is going into side tricks. (Addressing the Court) Will you please ask him not to make such remarks?

Mr. Herbert.—I do not choose to be dictated by Mr. Santanam or anybody else

Pandit Santanam.—By your own Court.

Mr. Herbert.—I have to prove in regard to Section 6 that the meeting was a public meeting, secondly, in regard to section 4 that they were going to discuss matters prohibited under that section, thirdly, it was held in a proclaimed area, and fourthly, it was held without the permission of the District Magistrate. These are four points which are to convict the accused under the Section. The accused in his statement contends that it was not a public meeting because it was not open to the public or any section of the public. This meeting was the meeting of the members of the Punjab Provincial Congress Committee who are elected by the District Congress Committee in the Province. But this is not the correct definition and which the General Secretary has purposely omitted. This is a *tonafide* charge that the Deputy Commissioner has brought against them under Section 6. I understand that the meeting was restricted to only members, but the issue of the meeting was a political one. We cannot take the *general* definition of the word "Public Meeting," but the legal definition. Dictionary definition is not to serve the purpose. The meeting that was held on the 3rd December does come under this definition. Even such private meetings as Directors' Meetings come under this Act. A Public Meeting is one which is held for the discussion or for the furtherance of the public cause while a Private meeting is a meeting which is held for discussion concerning one particular individual and not the public. A Cinema is open to a class of the public who spend on tickets to see it. Well, these two hundred persons who are the members of the Punjab Provincial Congress Committee, were not there for their own benefit, but for the ultimate benefit of these below them. They were still the members of the public and they went there as members of the public. It certainly does come under the meaning of "Class," that class of the public which has specially been elected by the public ultimately to represent them before this Provincial Congress Committee. The

objection of Lala Lajpatrai was that it was not a public meeting because it was restricted, but is just like a Cinema in which the number is restricted to only those who have got the tickets. Even in a Private meeting such matters should not be discussed. When this meeting was held in the office of the Provincial Congress Committee it was a public meeting although it may be against the ordinary definition of the word "Public Meeting" that is generally accepted. It was a public meeting and it was held with a particular purpose likely to cause disturbance and create excitement among the people. In the correspondence that passed between Major Ferrar and the General Secretary, Major Ferrar makes it clear in his letter that the subjects to be discussed were likely to cause disturbance or public excitement and he remarked that he did not wish to prohibit any meeting which is not convened for such a purpose. The General Secretary did not make any denial that that was not a public meeting. Not only that, when we come to the statement of Lala Lajpatrai we again find this omission that although that was not a public meeting he does not say that matters such as the law prohibits shall not be discussed. Every opportunity was given to the General Secretary to inform what particular matter was to be discussed. He did not answer at all, and as he did not reply to Major Ferrar and explain the nature of the meeting, it was obvious that the matter to be discussed was a prohibited one and proscribed by law. I draw the attention of the court to the Manifesto and Mr. Santanam's reply given to the Deputy Commissioner which is published in the *Tribune*. The attitude adopted by him in his letter already shows that they knew every thing and he says that particular laws are not to be obeyed, advocating Civil Disobedience thereby. The meeting was held in a proclaimed area without giving any notice to the District Magistrate. The Magistrate went out of his way to them to get permission for the meeting to be held. A great deal of irrelevant matter is said in Lala Lajpatrai's statement, and also in his statement delivered in Ferozpur.

Pandit Santanam. - Will you please find out whether it is by him? He is a habitual criminal.

CASE UNDER SECTION 145 INDIAN PENAL CODE.

Mr. Herbert. - The other case is under Section 145 Indian Penal Code. In this connection I may remark that the Deputy Commissioner is generally the District Magistrate. I have shown that it was a public meeting and a prohibited one, thus, *ipso facto*, it becomes an unlawful assembly.

The order was given in writing and we have also got the orders. Under the typed order the name of Major Ferrar was also typed which the Major cut off and signed Major Ferrar, District Magistrate and fixed his seal to the Document. Major Ferrar, it is well-known, is District Magistrate, I think he is well known to Mr. Santanam and Dr. Gopichand.

Lalaji.—He also presides over the Municipal Committee.

Pandit Santanam.—I have seen him only there times.

Mr. Herbert.—The second point is whether any public notice was given. I contend that a public notice was given. In his statement before the court, Colonel Gregson said that he had deputed a posse of policemen at the gates of the office, and it was a proof that a notice was given. So far as these four accused are concerned, it was so given by Major Ferrar in the Hall. I also give the definition of an unlawful assembly. An assembly of five or more than five men collected with a common object to resist Law, such an assembly is unlawful. This meeting was held particularly for Civil Disobedience. Civil Disobedience means disobedience to any law. My submission therefore is that it was an unlawful assembly. Section 5 says that if in the opinion of the District Magistrate a particular meeting is seditious he can prohibit it. The court has therefore no option in this case. In the end, I may draw your attention to the insulting attitude of the accused in the court. Mr. Santanam said that he did not recognise this court, he did not know that a strong officer was before them. Lala Lajpat rai in his statement has also given much irrelevant matter. He said in his statement that this Government is made up of brute force personified by Major Ferrar. Does it not indicate that these are the men who preach sedition and cause public excitement. When in the court they do not hesitate to say such things what is expected of them in the private. The District Magistrate was amply justified when he said that the meeting was to be convened for preaching sedition. The Government is openly flouted in the open court. I recommend to the court to inflict the utmost sentence that is in the power of the court on the accused.

Pandit Santanam.—Amen.

AMICUS CUREA'S ARGUMENT.

Mr. Saleem, Bar-at-Law, argued on the defence side on the request of the Magistrate to help the court only.

Mr. Saleem.—Under section 6 we have to see whether it was a public meeting and that under section 4 it was convened for public excitement. The Dictionary meaning of a public meeting is “a meeting that is open to the public.” Now we are to decide whether it was a public meeting or a private meeting. My learned friend says that a class or portion of the public is just like an audience of the people going to see the Cinema. But that is not correct. This class is no class of the people, as distinguished from the class of Doctors and Lawyers. The Provincial Congress Committee is an elected body out of the men elected by the various districts. This class of the Punjab Provincial Congress Committee is a private body who attended the meeting in their individual capacity. Secondly, the question is whether the meeting was held for the purpose of causing excitement among the people. I would submit that the newspaper reports are no proof that such and such a thing took place actually. If you say that it was a prohibited meeting, let us see what Section 5 says. It says that a meeting is prohibited one if the District Magistrate has passed any written order and given any public notice. Now, to send a posse of policemen and post them at the gates does not mean that a public notice was given. Even if some police officers had informed the members that the meeting was a prohibited one, it is not to say that a public notice was served. As to the case under Section 145 of the Indian Penal Code that it was an unlawful Assembly the evidence from the papers is not correct and is contrary to the Evidence Act. From the notice it appears that the meeting was to consider and discuss resistance to the law, but it did not actually resist the law. This is an expression and no more. There was no intention to commit any offence. The words are “to resist the execution of any law or any legal process.” They had simply to discuss it and not break the law. Clause 2 of Section 5 does not apply to this case because no public notice was given. Therefore it was not an unlawful assembly.

MR. HERBERT'S REPLY.*

Mr. Herbert replying said that notice was given to the accused and Lala Lajpatrai knew it that he would be arrested on that day.

Mr. S. N. Tanam.—There is a mad dog about, we fear we will be bitten.

Mr. Herbert.—In spite of the defence offered by *Mr. Saleem*, I would submit to the court, that it will in no way go to lighten the sentence I proposed.

* The full summary of *Mr. Herbert's* reply is given on page 52.

Pandit Santanam.—I may point out one thing that in the "Tribune" of the 22nd December it is given that Mr. Saleem is to defend the accused inspite of the protest of the accused.

Magistrate.—I have no connection with what the papers write. I called Mr. Saleem simply to help the court. Now do you want to say anything, Lala Lajpat Rai?

Lalaji.—No.

The court adjourned and the judgment will be pronounced on the 4th of January 1922.

LALA LAJPAT RAI.

SUPPLEMENTARY STATEMENT.

The following is the full text of the written statement filed by Lala Lajpat Rai in Court:—

I should like to mention some facts in addition to those mentioned in my statement of the 12th instant:—

On the 4th ultimo, a Meeting of the All-India Congress Committee was held and by a Resolution of that Meeting, Provincial Congress Committees were authorised to permit Civil Disobedience to individuals and in such areas as fulfilled certain conditions. It was understood that Civil Disobedience meant disobedience of laws and orders involving no moral turpitude in such a manner as to exclude all possibility of violence or breach of the peace. On the 17th November 1921 riots occurred in Bombay and the whole question was reconsidered at a meeting of the Working Committee of the Indian National Congress held in that city. The Committee after discussion decided that no province should embark on Mass Civil Disobedience without first making sure of a non-violent atmosphere. This practically meant that the idea of mass Civil Disobedience was temporarily abandoned. Civil disobedience by individuals was left in the hands of the Provincial Congress Committees but the general impression was that it would be difficult to start Civil Disobedience even in individual cases unless the Government foolishly passed repressive orders and thus give an opportunity for Civil Disobedience. Before the Committee dispersed, news came that the Bengal Government had declared the Congress and Khilafat Volunteer Organisations unlawful Assemblies under the Criminal Law Amendment Act of 1908. There and then leaders recognised that this was a splendid opportunity.

On my arrival at Lahore, I found the Punjab Government had gone one better for, besides declaring the Volunteer organisation unlawful, they had proclaimed the Districts of Lahore, Amritsar and Shaikhupura under the Seditious Meetings Act. Believing as we do that this was the beginning of an attempt to break the only political organisation in the country, viz., the Congress, we decided to start Civil Disobedience by disobeying the orders of the Government under these Acts, and a meeting of the Executive Council of the Provincial Congress Committee held on the 27th November 1921 passed a resolution to that effect. It was also resolved to reorganise our Congress and Khilafat Volunteers on the basis of instructions given by the Working Committee of the All-India Congress Committee at its sitting on the 23rd November 1921. We further decided that in order to eliminate all chances of violence and breach of the peace, only very small meetings should be held and the attendance as a general rule should be so arranged as not to let in any one who was not ready and willing to be arrested and was not pledged to non-violence. After this meeting was over it occurred to me that it would be better to explain all these precautions in a more representative meeting of the Provincial Congress Committee in order to still further reduce any chance of violence, so as to afford no opportunity to our opponents. I also wished to call a meeting to make arrangements for filling all vacancies occurring owing to arrest of office-bearers and members of the Committee. I therefore, directed the secretaries to issue a notice for an emergency meeting of the Provincial Congress Committee to be held on the 3rd December 1921 at 2 P.M. On the 2nd December one of the secretaries received the first letter of the Deputy Commissioner of Lahore in this connection (see the attached copy marked A). On the same day the following reply was sent (vide attached copy marked B.)

A meeting of the Working Committee of the Provincial Congress Committee was held to consider the situation created by this correspondence. Those present unanimously resolved that if the Deputy Commissioner took the threatened action of prohibiting the meeting, his order should be disobeyed. Drafts of resolutions were approved and Agha Muhammad Safdar was nominated to act as President, in case I was arrested. On the morning of the 3rd at about 11 A.M., a second letter from the Deputy Commissioner was received, (Vide the attached copy marked C). This was immediately replied to (vide the attached copy marked D.)

I should like to point out that there was no occasion for the Deputy Commissioner to apprehend either a disturbance or what he chose to style "public excitement" in connection with a meeting of the Provincial Congress Committee. No such disturbance has ever

taken place to the best of my knowledge in the whole history of the Congress Committee whether in the Punjab or in other Provinces, in particular, at present when the Congress has adopted the creed of non-violence, of which fact the Deputy Commissioner must have been aware, there was still less reason for any reasonable person to apprehend any disturbance or excitement.

I proceeded along with others to the place of the meeting and received the final notice prohibiting the meeting at 1.40 p. m. In the meantime, we had discussed the whole situation and were only waiting for 2 p. m., to strike to formally adopt the resolution and the manifesto. At 2 p. m. punctually the resolution and the manifesto were formally passed and we sat there in silence awaiting the advent of the Deputy Commissioner who personally arrived with a strong force of European and Indian Police.

In this connection, I must state that the laws of the Bureaucracy are not binding on the Indian people either morally or by the law of Nations. No laws are binding upon any people which are not passed either by themselves or by their representatives in a body properly constituted by their will. At the same time we had no intention of starting this campaign of Civil disobedience had the Bureaucracy left us any choice in the matter. The Bureaucracy can break its own laws and act lawlessly with impunity. They can murder our men and women, they can flog our children without rhyme or reason. They can insult our women and spit on their faces, they can humiliate us by passing crawling orders. They can treat us as cattle in their Jails, even the vilest of them can act the tyrant and then go scot-free without any punishment. Their most heinous crimes are mere "errors of judgment, and the worse that can happen to any of them is retirement on handsome pensions to be paid by us out of our hard-earned incomes. But if an Ind

was to cross the will of a Bureaucrat, however slight his offence may be, he is liable to be insulted, kicked, handcuffed in chains and finally lodged in a jail, where he is made to lead the life of a beast of burden, while the lowest of the Europeans lives in the near vicinity in comfort and comparative luxury. One has only to compare the food, the dress, the bedding, the accommodation and the other facilities allowed to a European prisoner with those of an Indian in Indian Jails. All talk of racial equality in this country is hypocritical nonsense. The Viceroy talks of being in the habit of placing himself in the position of others. Let him, if he can, place himself in the position of an Indian prisoner in the Lahore Central Jail and he will find out whether there is justification for Civil disobedience for us or not. Yet we were determined not to start Civil Disobedience, if the Government had only allowed us to proceed with the work of political organisation as laid down by the Indian National Congress. The recent orders passed under the Criminal Law Amendment Act and the Prevention of the Seditious Meetings Act leave us only two alternatives, either to stop the work of the Congress altogether or to go to jail. As honourable men determined to win our freedom we have chosen the latter cause and we are glad we did so. We feel we have already won more than half of the battle. The prestige of the Bureaucracy is in the dust to-day and they can only rule us in defiance of the laws of Justice by the use of force. Public meetings are being held in Lahore and Amritsar almost every day, and volunteers are parading in streets day and night in defiance of the orders promulgated by the Punjab Government receiving blows and wounds and insults from the police and the military but not retaliating with violence. The Government has not got the courage to arrest all of them and have started the brutal policy of beating them, which however has not succeeded in its objects. I am not sorry for what I did. I crave no indulgence either from the Government or the Court, and do not want to be let out of Jail as long as the present policy of the Government continues. To every truly patriotic Indian, India has already become a vast prison house. I feel I can serve my country better inside the Jail than outside it.

"I have deliberately omitted to make any mention of the many illegalities and irregularities committed by the Prosecution and the Court in the course of the trial."

[N. B. The enclosures to which references have been made in the above Statement have already been published on pp. 6, 7, 8, 9.]

MR. HERBERT'S REPLY.*

Mr. H. A. Herbert, Government Advocate, briefly replied congratulated Mr. Saleem on the lucid manner, in which he had argued the case; but said that he had remained unconvinced. The arguments of Mr. Saleem were not quite sound; but, said counsel they need not be taken as embodying his own opinions, as he was simply expected to put the case from the other side. If there was anything incongruous in those arguments, Mr. Saleem was not to blame, because he was not there to express his own views on the point of law involved.

MEANING OF "PORTION."

Proceeding, Counsel argued that he could not agree to the argument that the words "portion" as used in the section was limited to locality or community or section of the public. That would be adding something to the statute. It was not the business of the Court to legislate by interpolating a word here and a word there.

WHEN A FAMILY CONSTITUTES A PROHIBITED MEETING.

Counsel proceeded to refer to the instance of a father, son and mother meeting at the fireside and discussing non-co-operation and said that such a gathering would certainly come within the purview of the Seditious Meetings Act if that discussion was meant for the public and likely to cause public excitement. The members of the Punjab Provincial Congress Committee were representatives of the public.....

Mr. Saleem.—(Interrupting). The words, "likely to cause public excitement" in the section referred to the "subject" under discussion and not to the "discussion" of that subject.

*This portion has been specially prepared for this book by Par
Pearay Mohan, B.A., LL. B., Assistant Editor of the *Tribune*

WHY ORIGINAL DOCUMENTS NOT PRODUCED.

Counsel denied that the prosecution had relied simply on newspaper reports. On the other hand, the prosecution had made every attempt to produce the original documents. But Trilok Chand, a prosecution witness, who was Secretary of the Punjab Provincial Congress Committee had refused to produce certain documents before the Court or reply to the questions put to him.

The original manifesto issued by Lala Lajpat Rai had, however, been produced by the prosecution. As to the resolutions passed at the meeting of the Punjab Provincial Congress Committee, the issue of the *Bandemataram* in which they were published had been put on the file. Lala Lajpat Rai himself being the editor of the *Bandemataram*, that was the best evidence that could be produced under the circumstances.

THE QUESTION OF COMMON INTENT.

Counsel did not agree with Mr. Saleem that in order to make a gathering an unlawful assembly anything more than a mere mental condition was required. Intention was of the essence of the offence under section 145 Indian Penal Code. If an assembly actually proceeded to the resistance of law or the actual commission of an offence, it was no longer merely an unlawful assembly but became an assembly of offenders.

A MERE IRREGULARITY.

Counsel next referred to the contention of Mr. Saleem that the fact of Major Ferrar subscribing himself as "Deputy Commissioner" and not as "District Magistrate" had vitiated the notice and could not be cured under section 537 of the Criminal Procedure Code, as that section applied to judicial proceedings alone. Counsel argued that if such trifling irregularities could be cured in a judicial proceeding which was a much more serious affair, it was all the more reason that it should be done in a case like the present where the matter was purely executive and the alleged irregularity a mere clerical error.

KNOWLEDGE OF ACCUSED.

Proceeding Counsel observed that the accused persons were fully aware that Major Ferrar was the District Magistrate of Lahore, and that he had prohibited the meeting in question. Counsel referred to the report of the meeting as published in the *Tribune*, and said that Major Ferrar had informed the persons assembled at the meeting of the Punjab Provincial Congress Committee that the meeting had been prohibited by him. Major Ferrar had also read out to the meeting his order prohibiting the meeting. It was after that, that Lala Lajpat Rai had told the persons present at the meeting that those who wanted to leave the meeting could go away. All this had been published in the "*Tribune*," without any disclaimer from any of the accused persons or anyone else.

Mr. Pearay Mohan, Assistant Editor of the "*Tribune*," who was produced as a prosecution witness had stated that the information about the meeting published in his paper had been gathered from different persons.....

Mr. Saleem :—And was heresay. That is not very substantial.

NO RIGHT TO COMPLAIN

Continuing, Counsel referred to portions of the manifesto issued by Lala Lajpat Rai in the early morning of the day when he was arrested. In that manifesto the accused had definitely stated that he expected to be arrested. How could he now complain, asked Counsel, if what he was trying to bring about had actually happened.

Lala Lajpat Rai.—Who complain?

Mr. Santanam —We do not complain. If a mad dog is about, we are sure to be bitten.

WAS THE NOTICE PUBLIC.

Counsel next referred to the argument of *Mr. Saleem* that the notice prohibiting the meeting was not public but had been served on the Secretary, and that there was no evidence that the orders given by Colonel Gregson to his officers to communicate the notice

to all persons attending the meeting had been carried out. Counsel argued that all the accused persons arraigned before the court had been made cognisant of the fact that the meeting had been prohibited. When Colonel Gregson had issued certain orders to his subordinates the presumption in law was that those orders had been carried out in due course. It was for the other side to prove the contrary, if they alleged that.

Counsel, concluding said that inspite of all that Mr. Saleem had said, the guilt of the accused was clear as anything and they ought be convicted for the offences for which they were being tried.

THE LEADERS' TRIAL.

ARGUMENTS BY COUNSEL.

The following is the report of the arguments as published in the *Tribune* :—

Arguments in the case against Lala Lajpat Rai, Pandit K. Santanam, Dr. Gopi Chand, and Malik Lal Khan under Section 6 of the Prevention of Seditious Meetings Act and Section 145, I. P. C., were heard by Mr. J. E. Keough, Additional District Magistrate, Lahore, on Thursday, the 22nd December, 1921.

GOVERNMENT ADVOCATE.

Mr. H. A. Herbert, Government Advocate arguing the case for the Crown first dealt with the correspondence between Mr. K. Santanam, General Secretary of the Punjab Provincial Congress Committee, and Major M. L. Fecra, District Magistrate of Lahore regarding the meeting. Counsel said, that accused seemed to take their stand on the plea that the meeting was not a public meeting inasmuch as, according to their contention, it was not open to members of the public or any class or portion of it. But Mr. Santanam, said counsel, had designedly refrained from stating in his letters to the District Magistrate that the meeting was not only open to elected members of the Punjab Provincial Congress Committee, but also

40 members who had been co-opted. Similarly, while quoting Section 4 of the Seditious Meetings Act, Mr. Santanam had deliberately or otherwise omitted to refer to Sub-section (2). That shewed that the accused did not honestly believe that he was justified in holding the meeting.

PUBLIC AND PRIVATE MEETINGS.

Continuing, counsel said, that from the correspondence alluded to above and the statements of accused in court, their defence seemed to be that the meeting was not a public meeting, because admission to it was restricted to elected and co-opted members of the Punjab Provincial Congress Committee. Counsel was prepared to concede that in ordinary parlance the words "public meeting" would not apply to such a meeting. But words used in any enactment do not bear their ordinary dictionary meaning, unless in the Act they are not given any special or particular meaning. The Seditious Meetings Act definitely laid down that a meeting open to any class or section of the public was a public meeting, notwithstanding the fact that admission to it was restricted by ticket or otherwise. Those words counsel argued, clearly indicated that the legislature meant to give the widest application to the words, "Public Meeting."

Proceeding, counsel said that the other side might argue that if the definition of "Public Meeting" be taken in such a wide sense, then it would apply even to such meetings as a meeting of members of a club or of the stock-holders of a corporation. What then? asked counsel. The legislature had the power to define a public meeting as it thought proper. A public meeting, as counsel conceived it, was a meeting held for furtherance of an object of public concern. A dramatic performance, said counsel, was only open to that class of public which fulfilled the condition of paying for the ticket. Similarly, a meeting of the Punjab Provincial Congress Committee was open to that class of the public which fulfilled the condition of being its elected or co-opted members. Both were on the same footing, and should not be held to be private meetings.

Lala Lajpat Rai—(Interrupting).—The constitution of the Punjab Provincial Congress Committee is exhibit in the case: and in order to help the Government Advocate in his argument I might state that the Punjab Provincial Congress Committee consists of 200 members, of whom 175 are elected by the various District Congress Committees and the remaining 25 (co-opted members) are nominated by the 175 elected ones, which was done in May last. This I think, would make it clear to Mr. Herbert what co-opted members are.

Mr. Herbert.—I am obliged to Mr. Lajpat Rai. This is a statement made by him in his defence, and

Lala Lajpat Rai.—You charged me with dishonesty. That is why I made those remarks.

Mr. Herbert—It was not you who had that correspondence with Major Ferrar.

Lala Lajpat Rai.—I was President of the Punjab Provincial Congress Committee, and am responsible for Mr. Santanam's letters.

Proceeding, Mr. Herbert argued, that the omission to refer to co-opted members in Mr. Santanam's letters was *suppressio veri*. Counsel said that the members of the Punjab Provincial Congress Committee represented village, town and district Congress Committees and were, therefore, representatives of the public, and on behalf of and for the benefit of the public. The whole proceedings and resolutions of the Punjab Provincial Congress Committee were meant for the general public.

Proceeding, counsel said, that the word "public," had been defined in the Indian Penal Code; and according to Dr. Gour, any sub-division of public, ever so small but large enough to exclude mere individuals, came under that definition. Counsel argued that their being members of the Punjab Provincial Congress Committee did not make those persons any the less members of the public.

MEANING OF "PORTION."

Continuing, counsel contended that the Act said that a meeting open to 'portion' of the public was a public meeting. Portion meant a "part." Are not the 200 members of the Punjab Provincial Congress Committee, asked counsel, a part or portion of the public? The Act, counsel argued, nowhere laid down that a meeting would be considered a public meeting only when persons attending it were invited as members of the public. The plea that admission to the meeting was restricted could not benefit the accused, as the legislature had deliberately given the widest application to the words "public meeting."

STATUTARY SAFE-GUARDS

That, however, counsel said, did not mean that all meetings were banned under the Act. The provisions of the Seditious Meetings Act were hedged round by certain definite restrictions. Only those meeting at which there was discussion of matters likely to cause public disturbance or produce public excitement could be brought under the purview of the Act.

The prosecution, therefore, had to prove not only that the meeting was a "public meeting" but also that it was likely to lead to public disturbance or public excitement. Major Ferrar's evidence, said counsel, had amply proved that point. It was extremely significant, said counsel, that in none of the letters of Mr. Santanam was there any denial that at the meeting matters were to be discussed which were likely to cause public excitement or disturbance of public tranquility. There was absolute silence on that ever-important point. Nor had Lala Lajpat Rai anything to say on that point in his written statement. Every opportunity had been given to the General Secretary, Mr. Santanam, to explain what matters were to be discussed at the meeting : and his absolute silence on that point led the District Magistrate to suspect or realise that matters prohibited under Section 4 of the Act would be discussed at the meeting. Now that such matters were actually discussed was abundantly clear from the issue of the *Tribune*, dated the 6th December which was on the file of the case. Counsel proceeded to refer to the resolutions and manifesto adopted at the meeting and the message of Lala Lajpat Rai, and said that the meeting had discussed and advocated Civil Disobedience of law. The meeting of the Punjab Provincial Congress Committee had advocated that the notifications under the Criminal Law Amendment Act and the Seditious Meeting Act. That was quite sufficient for the purposes of Section 4 of the Seditious Meetings Act.

Proceeding, counsel said that the meeting was held in a proclaimed area. Nor was there any doubt that the meeting was held without notice to the District Magistrate and without his permission. The District Magistrate, as a matter of fact, went out of his way to the accused to take his permission ; but they refused to do so.

Continuing, Mr. Herbert said that the other day Lala Lajpat Rai, inspite of his saying he was not defending himself, had told the court that the whole of the evidence produced by the prosecution was irrelevant.

Lala Lajpat Rai.—I only said that a good many things produced by the prosecution were not relevant to the case.

Mr. Herbert —How can I reply, unless it is stated what particular documents are not relevant?

Lala Lajpat Rai.—I do not want you to reply to that.

Mr. Herbert —I would leave it at that.

Concluding, *Mr. Herbert* argued that at the Delhi meeting of the All-India Congress Committee, held under the presidency of *Lala Laipat Rai*, similar matters were discussed and Civil Disobedience was adopted. The District Magistrate, therefore, naturally suspected that at the Punjab Provincial Congress Committee meeting similar matters would be discussed. In another speech given by *Lala Lajpat Rai* and reported in the *Tribune*, a copy of which had been produced, he had spoken in the same strain: It was, perhaps, at Ferozepur that that speech had been made.

Mr. Santanam.—Better ascertain first.

Mr. Herbert.—Yes, it was at Ferozpur.

Mr. Santanam —You perhaps want to make out that *Lala Lajpat Rai* is a habitual criminal (laughter)

SECTION 145 I. P. C. CASE.

Dealing with the case under Section 145, Indian Penal Code, *Mr. Herbert* said that under Section 6, Sub-Section (2), any meeting prohibited under Section 5 became an unlawful assembly for the purposes of the Criminal Procedure Code, and the Indian Penal Code, all that was necessary for counsel to show was that a written public notice prohibiting the meeting had been issued by the District Magistrate, as contemplated by Section 5 of the Seditious Meetings Act. It might be contended, said counsel, that the notice had been signed by *Major Ferrar* as Deputy Commissioner and not as District Magistrate. But the order had been sealed with the seal of the District Magistrate's Court. Besides, in Lahore the District Magistrate and the Deputy Commissioner were invariably the same person.

Mr. Santanam.—He is also the President of the Municipality.

Mr. Herbert —Yes I am coming to that.

Continuing, counsel said that *Dr Gopi Chand* and *Mr. Santanam* Municipal Commissioners and *Lala Lajpat Rai* as a lawyer were aware of the fact that *Major Ferrar* was the District Magistrate

of Lahore. There was, however, said Counsel nothing to show that Malik Lal Khan was also cognisant of that fact except that as a member of the public he was expected to know that. And at the utmost, Counsel argued, it was a mere irregularity and ought to be disregarded as being on a par with irregularities mentioned in Section 537 of the Criminal Procedure Code.

PUBLIC NOTICE.

Section 4 also required that the notice should be public. With regard to that, Counsel submitted that as far as the 4 persons before the Court were concerned, notice of the meeting having been prohibited had been given to them. The evidence of Colonel Gregson, Superintendent of Police, clearly established that. The meeting was, therefore, an unlawful assembly under Section 141 Indian Penal Code (clauses 2 and 3). Under those clauses, an assembly becomes an unlawful assembly if its object was to resist the execution of law or the committing of any mischief or trespass or any other offence. Counsel argued, that these conditions were fulfilled because at the meeting of the Punjab Provincial Congress Committee the disobedience of law *i. e.* the commission of offences under the Seditious Meetings Act and the Criminal Law Amendment Act was decided upon, and the meeting also abetted the commission of those offences. Civil Disobedience of law and breach of law were synonymous terms.

EXTREME SENTENCES CALLED FOR.

Concluding, Counsel said that the charges had been brought home to the accused; and it was his unpleasant duty to press for the passing of the highest sentences provided by the law. On the first day, the accused had been truculent and insolent, though later on they had shown themselves more amenable to law and had refused to reply to questions put by court after the charge with apologies to the Magistrate.

Mr. Santanam.—Do not insult us like that. We are still truculent.

Counsel, continuing said that the accused had apparently realised that the Magistrate was a strong officer having the courage of his convictions. In court itself the accused had said that the Government was based on brute force personified by Major Ferrar. When they could use such language in court, they were capable of saying anything in secret. No consideration should be shown to the accused, and he demanded the utmost sentence against them.

MR. SALEEM."

Mr. Saleem Bar-at-Law, next argued the case on the other side as *amicus curae*. Mr. Saleem said that it was not the intention of the legislature to apply the words "public meeting" to all gatherings, because the application of the phrase had been limited only to meetings which were open to any class or portion of the public. Sub-Section (2) did not amplify the definition, but merely explained it. The meeting must first come under Sub-Section (1) of Section 4, before Sub-Section (2) could be applied to it which only meant that if a meeting was a public meeting it would not be a good defence to say that it was held restricted by ticket or otherwise. In order that a meeting might be called a public meeting, it must be open to a class or portion of the public. It would be unreasonable to suppose that "class or portion" of the public. The position taken up by the Government Advocate implied that the Seditious Meetings Act would apply to all meetings, even to the group of father, son and mother who happened to discuss non-cooperation or Civil Disobedience at the fireside in the drawing room, because they were undoubtedly members of the public. The accused and other members of the Punjab Provincial Congress Committee were attending that meeting not as portion or class of the public but as individuals, invited to attend the meeting by name.

As to whether the meeting of the Punjab Provincial Congress Committee was held for furtherance of discussion likely to cause disturbance or public excitement, counsel submitted that the prosecution had failed to produce any evidence of that point. Mere newspaper reports were not sufficient evidence under the Evidence Act, and could not be taken to establish what had happened at the meeting.

Mr. Saleem next dealt with the case under Section 145 Indian Penal and said that the notice should have been (1) in writing (2) public and (3) issued by District Magistrate. In the first place

counsel argued, the notice, such as it was, had been signed by the Deputy Commissioner and not the District Magistrate. The knowledge of the accused that Major Ferrar was also the District Magistrate was not sufficient :—It should have been issued by him in that capacity. In the second place, the notice was not public. The law did not lay down that any individual was to be served with a notice. A notice to the Secretary of the Punjab Provincial Congress Committee was not only not necessary but insufficient in law. The learned Government Advocate had argued that Colonel Gregson had posted officers to tell individual members as they came along that the meeting had been prohibited. That was not public notice, but a mere notice to individual members as they came along. Besides, there was no evidence that the officers posted by Colonel Gregson had carried out his instructions.

Continuing, Mr. Saleem submitted that the meeting did not come under Section 141, (Clauses 2 and 3) Indian Penal Code. In the first place, mere newspaper report of the proceedings of the meeting were not sufficient evidence of the fact that Civil Disobedience had been decided upon at the meeting. Direct evidence of that fact ought to have been given. In the second place, Counsel argued, the resolution alleged to have been passed was a mere expression of an intention of the members that at a future time they would disobey the law if occasion for that arose. Discussion of a subject was not common intention—some members might have disagreed. And even if a man said, he did not intend to obey a particular law under certain contingencies, he did not come under Section 141, Indian Penal Code so long as he did not actually proceed to disobey the law. There must be some process or law in the course of execution, which was to be resisted before an assembly could come under section 141 Indian Penal Code. Mere intention to do so at a future time did not make an assembly unlawful under Section 141. The intention might be changed.

Concluding, Counsel observed that Section 557 Criminal Procedure Code did not apply to the irregularity of the notice having been issued by Major Ferrar as Deputy Commissioner, as that Section only applied to judicial orders and not executive orders.

The Government Advocate then briefly replied. (*Vide* page 52).

JUDGMENT PRONOUNCED.

On Saturday, the 7th instant, judgment was pronounced in the cases against Lala Lajpat Rai, Pandit K. Santanam, Dr. Gopi Chand and Malik Lal Khan. A large number of persons, including some ladies, had, therefore, assembled outside the Central Jail to hear the orders. The magistrate, Mr. J. E. Kechigh, however, arrived at about 2-45 p. m. ; and ordered that only 25 persons would be admitted into the jailor's room, where the proceedings were to be held.

The Magistrate read out to the accused the whole of the judgment. He found that the meeting of the Punjab Provincial Congress Committee was a public meeting under Section 3 of the Prevention of Seditious Meetings Act, in that it was open to that class or portion of the public which fulfilled the condition of being members of the Punjab Provincial Congress Committee and was held for the furtherance of purposes of public concern ; that the said meeting was likely to cause public excitement or disturbance of public tranquility ; and that the said meeting was held without the permission of the District Magistrate.

The magistrate accordingly convicted all the accused under Section 6 of the Seditious Meetings Act. ; and sentenced Lala Lajpat Rai, and Pandit K. Santanam to 6 months' simple imprisonment and Rs. 500 fine each, and Dr. Gopi Chand and Malik Lal Khan to 4 months' simple imprisonment and a fine of Rs. 300 each.

With regard to the case under Section 145 Indian Penal Code, the Magistrate held that since the meeting of the P. P. C. C. was a public meeting and had been prohibited under Section 5 of the Prevention of Seditious Meetings Act, it became an unlawful assembly under Section 6 (2) of the said Act. He also held the meeting to be an unlawful assembly within the meaning of Section 141, Indian Penal Code, inasmuch as Civil

Disobedience was decided upon at that meeting, and the resistance of the execution of certain laws, notably the Seditious Meetings Act and the Criminal Law Amendment Act, was abetted and instigated. The Magistrate found that all the four accused persons had joined and continued to be members of the said unlawful assembly after it had been ordered to disperse in the manner prescribed by law.

All the accused were accordingly convicted under Section 145, Indian Penal Code, and sentenced to one year's rigorous imprisonment each. The Magistrate further ordered that the sentences would be consecutive, the sentence under Section 145 I. P. C. to begin first.

When the Magistrate had finished reading judgment, Pandit Santanam said :—"Thank you, Mr. Magistrate." *The Tribune*.

L. LAJPAT RAI'S CASE.

Text of Judgment.

The following is the full text of the judgment delivered in the cases against Lala Lajpat Rai and others :—

All four accused, *viz.* L. Lajpat Rai, Mr. K. Santanam, Dr. Gopi Chand and M. Lal Khan have been proceeded against in two separate cases, the first under Section 6 of the Prevention of Seditious Meetings Act X of 1911 and the 2nd under Section 145 I. P. C., as the result of a meeting held by the Punjab Provincial Congress Committee in its office situated in Salim Buildings, Lahore, on 3rd December, 1921. The cases have been separately tried but the evidence is practically the same and I propose to deal with both cases in one judgment.

In the case under the Seditious Meetings Act the case for the prosecution is that the Prevention of Seditious Meetings Act came into force in Lahore on 25-11-1921, that notice of the intention to hold the meeting in question was not given to the District Magistrate as required by Section 4, that having otherwise learnt that the accused along with others were going to hold a meeting covered by Section 3 of the Act on 3rd December 1922, the District Magistrate on the 2nd December entered into correspondence with the General Secretary of the Punjab Provincial Congress Committee, but as no assurance was given that the discussions would not touch on subjects likely to cause disturbance or public excitement, the District Magistrate under the provisions of Section 5 of the Act by a written order, Ex. P. C., prohibited the holding of the said meeting which, in his opinion, would be likely to promote sedition or to cause a disturbance of the public tranquillity, that notwithstanding the prohibitory order, which had been duly served on the Secretary P. P. C. C. Mr. K. Santanam, accused, the meeting was held

at the appointed time and place, that shortly after 2 p. m. on the 3rd December the District Magistrate accompanied by the Senior Supdt. Police proceeded to the place and found that the meeting was being held. He announced to the persons assembled that the meeting had been prohibited by him, informed them that they constituted an unlawful assembly and directed them to disperse, and that upon their refusing to disperse the four accused were arrested.

Called upon to show cause why he should not be convicted under Section 6 Seditious Meetings Act, L. Lajpat Rai, accused, said that the meeting was not a public meeting but a meeting of the P. P. C. C. not open to the public, that only members of the P. P. C. C. and a few co-opted members had been invited to attend and that the order prohibiting the meeting was not issued by Major Ferrar in his capacity as District Magistrate, but was signed by him as Deputy Commissioner and as such illegal.

The other three accused as Non co-operators refused to make any statements, but the statement of L. Lajpat Rai may be taken as representing the views of all the accused.

Major Ferrar tells us, and he was fully corroborated by Colonel Gregson, Senior Superintendent Police, that on entering the room in which the meeting was being held he informed those assembled there that he had prohibited the holding of that meeting, that they had consequently constituted an unlawful assembly and that he directed them to disperse, but his order to disperse was not obeyed. It was not until after he saw that those present refused to obey his order, that District Magistrate ordered the arrest of the accused :—

The points for decision in this case are :—

- (1) Whether the meeting in question was a public meeting within the meaning of Section 3 of the Act ?
- (2) Whether it was likely to cause disturbance or public excitement ?

(3) Whether permission to hold the meeting was obtained ?

"Public meeting" is defined in Section 3 of the Act as a meeting which is open to the public or any class or portion of the public, notwithstanding that it is held in a private place and notwithstanding that admission thereto is restricted by ticket or otherwise. It would appear that the Legislature have deliberately given a very wide meaning to the expression "Public meeting."

Mr. Sleem, Advocate, who very kindly undertook the duties of an Amicus Curiae, contends that the meeting in question was one for the members of the P. P. C. C. and as such not open to the public and was, therefore, not a public meeting within the meaning of the Act. He urged that the members of the Punjab Provincial Congress Committee did not constitute the public nor yet a class or portion of the public. He submitted that the word "class" implied a particular body of the public such as Doctors, Lawyers etc. and not to any collection of people and that the word portion must be taken to have been used in a very limited sense. His interpretation of the word as used in the Act is that it implies something which has reference to locality such as the public of a particular locality, Mozang, Anarkalli, etc.

I confess my inability to follow his reasoning. The word "public" is defined in Section 12 of the I. P. C. as including any class of the public or any community. In popular parlance the word "public" means the general body of mankind or of a community. It may also be sometimes used in a more restricted sense of denoting only a particular body or aggregation of people of a particular class or profession such as Doctors, Lawyers and the like, but as used in the Code the term implies any sub division or collection of the public.

Gour in his commentary on Section 12 of the I. P. C. Para 112 at page 206 says. "A public performance is open to the 'class of the public' who pays for admission." Similarly this particular meeting was open to that class of the public

which fulfilled the conditions of membership of the Punjab Provincial Congress Committee. The intention of the Legislature cannot have been to restrict the meaning of the term "class of the public" to any particular body or bodies to the exclusion of any collection or aggregation of people. The Punjab Provincial Congress is a public body accessible to all without distinction as to caste, creed or religion. The meeting in question was open to members of the Punjab Provincial Congress Committee and certain co-opted members from the various Districts of the Province and they were thus representatives of the public and they attended on behalf of and for the benefit of the public and the meeting was certainly for the furtherance or discussion of matters of public concern. But the Seditious Meetings Act gives a very much wider meaning to the term "public meeting" and includes any class or portion of the public.

The word 'portion' is not defined and must be given its ordinary Dictionary meaning i. e. a part and although those who attended the meeting were members of the Punjab Provincial Congress Committee they were a part of the whole organisation which is a public body and as such they must certainly be held to have been a portion of the public. Mr. Sleem would have us add the words "as such" to the definition of "Public Meeting" in Section 3 of the Act, but it is not for the Courts to legislate or to interpolate words which were never intended. The duty of the Courts is to apply the law as it stands.

There is, in my opinion, no doubt whatever that the persons who attended the meeting in question constituted both a class and portion of the public within the meaning of Section 3 of the Act, and I accordingly hold that the meeting in question was a public meeting as defined in that section notwithstanding that it was held in a private place, vide clause (2) of Section 3.

As to whether the meeting was for the furtherance or discussion of any subject likely to cause disturbance or public excitement, we have only to peruse the letters of Mr. Santanam

to the District Magistrate, the Resolutions passed at the meeting and the manifesto issued over the signature of the President of that meeting published at pages 2 and 3 of the *Tribune* dated 6th December 1921. In both his letters to the General Secretary of the Punjab Provincial Congress Committee Major Ferrar laid stress on the point that the meeting was likely to cause disturbance or public excitement and he desired to be given an assurance that no such subject would be discussed, but no assurance was given and L. Lajpat Rai in his statement has not said that matters referred to in Section 4 of the Act were not discussed and he could not possibly have said so in view of the resolutions and manifesto which clearly prove that such matters were freely discussed and that Civil Disobedience of the Seditious Meetings Act and the Criminal Law Amendment Act was declared. Disobedience of any law must inevitably result in a disturbance of the public tranquility and I have no hesitation whatever in holding that the meeting was for the furtherance or discussion of subjects likely to cause disturbance or public excitement.

As to the third point* it is not alleged by the accused that they sought or obtained permission to hold the meeting. On the contrary, Mr. Santanam in his letter to the District Magistrate said clearly that no application for permission or notice of their intention to hold the meeting was necessary in view of his interpretation of the Act, and we have it in evidence from Major Ferrar that no permission was sought or granted but that on the contrary the meeting had been prohibited.

To sum up, then, I hold that the meeting in question was a public meeting within the meaning of the Act, that it was for the furtherance of subjects likely to cause disturbances or public excitement and that it was held in contravention of the provisions of Section 4.

I accordingly convict all four accused under Section 6 of the Prevention of Seditious Meetings Act X of 1911 and sentence them as follows :—L. Lajpat Rai and Mr. K. Santanam, President and Secretary of the meeting to six months' simple

imprisonment each and a fine of Rs. 500 each and Dr. Gopi Chand and M. Lal Khan to four months' simple imprisonment each and a fine of Rs. 300 each.

I now come to the case under the I. P. C. in which all four accused stand charged under Section 145 in that they joined or continued in an unlawful assembly knowing that such assembly had been commanded in the manner prescribed by law to disperse.

The facts with regard to the assembly have already been stated and need not be recapitulated. The prosecution contend that the meeting was an unlawful assembly both under Section 6 (2) of the Seditious Meetings Act and within the meaning of Section 141 of the Indian Penal Code.

Clause 2 of Section 6 of the S. M. A provides that any public meeting which has been prohibited under Section 5 shall be deemed to be an unlawful assembly within the meaning of Chapter VIII of the I. P. C. and of Chapter IX of the Code of Criminal Procedure. I have already held that the meeting in question was a public meeting and it only remains to show that it had been prohibited under Section 5 which runs as follows :—

“The District Magistrate or Commissioner of Police, as the case may be, may, at any time, by order in writing, of which public notice shall forthwith be given, prohibit any public meeting in a proclaimed area if, in his opinion, such meeting is likely to promote sedition or disaffection or cause a disturbance of the public tranquility.”

The District Magistrate did by written order Ex. 1 prohibit the meeting and in his evidence he has given very cogent reasons for having issued that order. Under Section 5 of the Seditious Meetings Act it will be seen that the opinion of the District Magistrate is sufficient to warrant the issue of such an order. His opinion cannot be questioned. Mr. Sleem contended that the meeting had not been prohibited in the manner prescribed by Section 5 of the Seditious Meetings Act, in that the order was not signed by Mr. Ferrar as District Magistrate, but as Deputy Commissioner.

and that public notice of the order in question was not given. Certainly the type-written order was signed by Major Ferrar over the designation of Deputy Commissioner but the order bore the seal of the Court of the District Magistrate, and the endorsement at foot of the order which is in Major Ferrar's own handwriting, is signed by him as District Magistrate. The designation given under his signature of the order itself is merely a clerical error. The offices of the District Magistrate and Deputy Commissioner are invariably held by one and the same person and the incorrect designation is merely an irregularity which does not vitiate the order, particularly in view of the fact that the order bore the seal of the District Magistrate.

As to the public notice of the order having been given we have it in evidence that Col: Gregson, Senior Supdt. Police, deputed certain Police Officers to inform persons attending the meeting that it had been prohibited. Col. Gregson says that he overtook Ch. Ram Bhaj Dutt on his way to the meeting and informed him of its having been prohibited and that he gathered from what that gentleman said that he already knew that the meeting had been prohibited. No notice of the intention to hold the meeting had been given to the District Magistrate to admit of his giving wider publicity to his prohibitory order. Major Ferrar himself informed those who had assembled that the meeting had been prohibited and that they therefore constituted an unlawful assembly and directed them to disperse which they refused to do and it was only when the District Magistrate saw that the persons attending the meeting declined to disperse that he ordered the arrest of the accused. Moreover, the account of the meeting published at page 2 Col. 1 of the *Tribune* of the 6th December, which has not been contradicted, shows that Mr. Santanam, on being served with the District Magistrate's order prohibiting the meeting, took it into the meeting and read it out to those present. So that so far as the four accused persons are concerned they cannot be said to have been ignorant of the order. In the circumstances, I therefore, hold that sufficient publication of the order had been given and that

the meeting was therefore an unlawful assembly within the meaning of Section 6 (2) Seditious Meetings Act. The prosecution contend that the meeting was also an unlawful assembly under Section 141, Indian Penal Code. Section 141 defines an unlawful assembly as an assembly of 5 or more persons if the common object of the persons composing that assembly is :—

Second to resist the execution of any law or any legal process or third—to commit any mischief or criminal trespass, or other offence.

The common object of the assembly was to resist the execution of certain laws, notably the Seditious Meetings Act and the Criminal Law Amendment Act.

The Resolutions passed at the meeting and the Manifesto issued as the result of that meeting clearly show that civil disobedience was declared in respect of those two enactments and abetted the commission of offences under various sections of the I. P. C. such as Sections 174, 175, 176 and 186 to 188, Indian Penal Code, which must inevitably have resulted in a disturbance of the public tranquility and abetment of an offence is in itself an offence. Section 107, Indian Penal Code, says that a person abets the doing of a thing who instigates any person to do that thing, while Section 109, Indian Penal Code, provides that the abettor shall, if the act abetted is committed, be punished with the punishment provided for the offence.

Here the persons composing the assembly abetted the resistance of the execution of certain laws.

Mr. Sleem argued that the resolution enjoining Civil disobedience was only an expression of the intention of the persons present there and that they were not actually carrying that into effect but that the resolution was to be given effect to at some future time. In other words, he contends that in as much as they were not actually disobeying at the time they are not liable under Section 145, I. P. C. Now under Section 141, I. P. C., it is the intention and not the actual commission of an offence that is to be taken into

consideration. Moreover, he apparently overlooked the provisions of Section 127 of the Cr. P. C. which empowers any Magistrate to command an unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse and the section further provides that it shall thereupon be the duty of the members of such assembly to disperse accordingly. Major Ferrar tells us that he commanded the persons composing the assembly to disperse and this is admitted by L. Lajpat Rai in his statement, but they refused to obey the order. Here, as under Section 5 of the Seditious Meetings Act, the opinion of the District Magistrate as to the likelihood of the assembly causing a disturbance of the public peace cannot be questioned. I therefore hold that all four accused joined and continued in an unlawful assembly which had been commanded in the manner prescribed by law to disperse, which order they refused to obey and I accordingly convict all four accused of the offence of which they stand charged. The accused acted in a very high-handed manner in defiance of all law and order. Even in Court their behaviour has been most truculent throughout and in my opinion severe sentences are called for. I therefore sentence them to one year's rigorous imprisonment each under Section 155, Indian Penal Code.

The sentences in the two cases will run consecutively and the one under Section 145, Indian Penal Code, will commence first.

Pronounced.

(Sd.) J. E. Keough,

Lahore,

Additional District Magistrate.

7th Jan. 1922,

LALA LAJPAT RAI'S MESSAGE.

(Translated from the *Bandemataram*.)

The following article was handed over to the Editor of the *Bandemataram* by Lala Lajpat Rai after judgment had been pronounced :—

My dear countrymen.

Upto to-day I was an undertrial prisoner but now I am a convict. Most probably, till the expiry of my term, I shall have no opportunity of exchanging ideas with you, so I present to you the following few thoughts on the current events.

At the outset, I desire to assure you that I am perfectly happy. I am grateful to God for the opportunities of performing moral *Sadhans* (practices) afforded to me through the grace of the present Government. I am trying so that those elements of pride, vanity, selfishness and self-love which may still form part of my character may be destroyed in the furnace of jail life, thus enabling me to come out of this place purified. Last time when I was imprisoned, I had no experience of jail life and I had no opportunity of witnessing the spectacle wherein human beings are degraded from humanity. The experience that I am having this time has taught me that it is not possible to increase the dignity inherent in being a mere man by means of wealth, riches, learning and position. There are very few men in the world and therefore my only desire is to become a man. Around me there are innumerable men, many of them are prisoners and some officials. In my judgment a large majority of those people who are outside jails and owing to the possession of wealth, riches, learning or position are looked upon with respect by society, are not better than these prisoners. They are outside jail because Society as at present constituted punishes Poverty and Helplessness; and not Crimes. There who does not commit an "offence" (*Badmashi*). But while the poor and helpless prisoner is cruelly degraded from the pedestal of humanity, others get the reward for this *Badmashi* in the shape of increment and prosperity. A prisoner is deprived of treatment deserving of a man, merely because he is a prisoner so much so that gradually all the finer qualities in him are wiped away and he becomes a quadruped. Their warders become quadrupeds because society tolerates them. The result in both cases is the same. I have felt that it is necessary for us to love men merely because

they are men and not because of their wealth, riches, learning position. Jails are the Satan's home. Within these there is no end of dirt, both outward and inward. Within them there is also dishonesty and mischief not fit to be described. But my heart longs to love more and more, these dirty, mischievous, misery-stricken "Criminals." They are wicked and criminals because society by its inhuman treatment has made them so, otherwise every one of them possesses within himself the same priceless gift with which Mahatma Gandhi is endowed. These jails have not been made for reform purposes but in order that certain persons, who are in possession of power, may find an opportunity of fostering their pride. These people are themselves helpless. Their education and training are responsible for their helplessness. That is why they are themselves deserving of pity. I am trying to make my mind free (from any unkind thoughts) towards them also so that there may remain in my mind no trace of any feeling of grudge or anger against them. Owing to these reasons I look upon my imprisonment as an unequalled blessing. There is no better school than this for practising self-control and learning humility, provided one can adapt one's nature to practise these. So far about my jail life.

Now I wish you to understand clearly why we have been imprisoned. The act for which we have been punished was not an act of Civil Disobedience. We have not till now started Civil Disobedience. It is our faith that freedom of speech and writing is our birthright. There can be only one limitation to it and it is this, that by that freedom we may not encroach upon the natural rights of others and we may not do anything against morality. Similarly it is our birthright to confer together and to benefit by association with one another. There is one limitation to this also, and it is this, that we should not use this right to injure another. If we act contrary to these principles, society is entitled to punish us. But no society has the right to punish the whole society for our mistake and deprive it of these birthrights. Whatever I did on the 3rd December, I did in defence of these birthrights of myself and of society. I believe that in prohibiting our meeting and arresting us Government has broken its own laws. But I do not wish to enter into a verbal discussion."

Proceeding further Lala Lajpat Rai emphasizes the fact that they had not yet embarked on civil disobedience which was to commence from the 15th January.

The "Bandemataram" of the Jan. 1922 published messages from Lala Lajpat Rai's wife and son also.

LALA TRILOK CHAND'S TRIAL.

PROSECUTION EVIDENCE RECORDED.

Why the Accused Refused to Give Evidence.

On Saturday the 17th December 1921, Lala Trilok Chand, Secretary Punjab Provincial Congress Committee, was produced before Mr. Keelen, Magistrate 1st class, Lahore, in the Central Jail, to undergo his trial under Sections 175 and 179 Indian Penal Code, for declining to give evidence in the case against Lala Lajpat Rai and others. After the statement of the accused and the prosecution evidence has been recorded the case was adjourned till Monday, the 17th instant, for orders.

Mr. Shiv Narain, Public Prosecutor, assisted by Rai Sahib Lala Devi Das, Court Inspector, appeared for the Crown, while the accused was undefended. Mr J. E. Keough, Additional District Magistrate, and Lala Chaman Mal, M.A., LL.B, Magistrate were also present during a part of the proceedings.

STATEMENT OF THE ACCUSED.

The accused, Lala Trilok Chand, B.A., LL.B, was brought into the Jailor's Rooms, where the trial was held in handcuffs and was looking cheerful and unperturbed.

Asked by the Court to show cause why he should not be convicted under Sections 175 and 179 of the Indian Penal Code, he made the following statement:—

I was served with a summons on the 10th instant to appear as a witness in the case against Lala Lajpat Rai and others on the 12th instant in the Court of Mr. Keough. But I did not receive a regular summons to appear as witness on the 16th. I only received a note from the Inspector of Police, Anarkali, that the case would be heard in the Central Jail by Mr. Keough on the 16th. On the 12th I was given no formal notice by the Court that the case has been adjourned to the 16th. It was only on the evening of the 15th, that I received

an intimation from the Police that the case had been fixed for the 6th. That intimation does not amount to a regular summons according to the provisions of the Criminal Procedure Code. But I do not want to take advantage of any such technical irregularity.

Magistrate.—You want to go jail ?

Accused.—I have been courting imprisonment for the last three or four months, rather ever since I gave up my practice as lawyer.

Public Prosecutor.—(To Court.) You may also kindly asked him if he was present in Court on the 16th and refused to reply to questions put to him.

Mr. Keough.—(interrupting). That would come later. At this stage, he has only to show cause.

Questioned further by the trying magistrate (Mr. Keelan), the accused continued his statement.—

I was required by the summons served on me on the 10th to bring certain documents on the 12th. In obedience to the resolutions passed at the Delhi Session of the All-India Congress Committee, I refused to be treated as a witness in Mr. Keough's Court, and hence I refused to answer questions put to me. For the same reason the documents asked for were not produced in Court. But I want to mention that the papers I was asked to produce were not in my possession and could not be produced. The office of the Punjab Provincial Congress Committee had been searched and all documents which the police considered to be relevant to the case against Lala Lajpat Rai and others had been removed by the Police.

The first document I was asked to produce was the provisional constitution of the Punjab Provincial Congress Committee. The draft of that constitution was put before the Committee, passed with certain changes and printed. The printed copies had already been taken away by the Police. So far as I can remember, the original draft had been sent to the Press, and was not in the office of the Congress Committee.

The second thing I was asked to produce was the draft constitution of the Working Committee of the Punjab Provincial Congress Committee. There is no constitution of the Working Committee. In the rules framed by the Provincial Committee there is a rule authorising the Executive Committee to appoint a Working Committee if the Executive Committee so desire. I cannot quote from memory the exact words of the rule.

The third document I was asked to produce was the minutes Books in which proceedings of the meetings of the Punjab Provincial Congress Committee were recorded. We have got no minute book. We get the proceedings printed and printed copies are supplied to members.

The fourth document mentioned in the summons was the agenda of the meeting of the Punjab Provincial Congress Committee fixed for the 3rd December. We have no printed copies of the agenda. In the notice circulated amongst the members it was specified that the said meeting was convened with the object of considering the present political situation in the Province, more especially the position that had arisen with reference to the application of the Seditious Meetings Act in the various districts of the Province and the enforcement of the Criminal Law Amendment Act, 1918, (Part II), and the duty of the Committee at this juncture. In the correspondence which passed between me and the Deputy Commissioner of Lahore this agenda was specified.

The fifth document I was asked to produce was the draft resolutions passed by the Provincial Committee in its meeting of the 3rd instant. The resolutions were supplied to the press, and appeared in almost all the dailies of Lahore. The original draft was not in my possession.

The sixth thing I was asked to produce was the draft of the manifesto issued by Lala Lajpat Rai, the President, on behalf of the Punjab Provincial Congress Committee. The draft was not in my possession. The manifesto has, however, appeared in the "Tribune" and other newspapers of Lahore.

(At this stage, the handcuffs of the accused were removed by order of the Magistrate).

Continuing his statement, Lala Trilok Chaud said:—I have mentioned these facts regarding my inability to produce the documents not with the idea of offering a defence, but in order that my refusal, so to speak, to produce those documents were concealed so as as to create difficulties in the case Lala Lajpat Rai and his co-workers.

Mr. Keough :—(Interrupting) All that is besides the point.

Continuing the accused said :—The Police wanted to arrest me. Somehow or other, they could not arrest me on the 3rd, and were on the look-out to find a plea to arrest me. I plainly told the Sub-Inspector of Police, when he came to my office in connection with search, that I would refuse to give evidence on account of the Congress resolution. Notwithstanding that intimation which I gave to

the Sub-Inspector, I was summoned as witness, so that I may be arrested and may not be able to do the work which I was doing as Secretary of the Punjab Provincial Congress Committee. I do not however, wish to complain against the police. Rather, I am thankful for having been given this opportunity of doing what I consider my duty to do.

What I have stated, I have not said with the idea of offering a defence but with the idea of making certain matters clear.

Court :—Do you want to hear your statement?

Accused :—Just as you like.

The accused was then given a chair by order of the court, and his statement was read to him.

PROSECUTION EVIDENCE.

MR. KEOUGH.

Mr. J. Keough, Additional District Magistrate, Lahore, was the principal prosecution witness.

He stated :—On the 16th of December 1921, I was trying the case *Crown vs. Lajpat Rai and 3 others* under section 6 of the Prevention of Seditious Meetings Act.

Accused :—(Interrupting) I was summoned to appear on the 12th in the case under Section 145 Indian Penal Code.

Continuing Mr. Keough said :—The accused now present in court was present in court and was produced before me as a witness. As a witness, he refused to take an oath, and said that his creed required him to tell the truth, which I held to be quite sufficient for the purposes of the case. On being questioned, the accused said he declined to answer the questions in view of the resolution passed at the Delhi session of the All-India Congress Committee. He also stated that for the same reason he would not produce the documents he was required to produce. I gave him another opportunity, but he persisted. His refusal to answer questions when produced in court and his refusal to produce the documents that he was required to produce constituted offences under Sections 175 and 172 Indian Penal Code; and I directed his prosecution under those sections.

Questioned by court, witness stated :—Documents were not specified to accused in Court. On the 12th, all witnesses were informed that the case would be taken up on the 16th and proceeded

thereafter from day to day. I did not inform the witness personally of that. I did not see him in court. The law requires that the witnesses summoned in a case will continue to attend the court unless discharged; and no witness was discharged by me except Major Ferrar and Colonel Gregson. No formal notice was given to witness for the 16th. No such notice was required.

ANOTHER PROSECUTION WITNESS.

FORGOTTEN Gurdial Singh, Naib Court Inspector of [Mr. Keough's Court was next called. He stated:—I saw the accused in Court on the 12th. Before the case was called, I saw the witness including the accused enter the Court before Lala Lajpat Rai and other accused had come. It is customary to issue fresh summonses to witnesses whose evidence is not taken, or to produce them before the Court and order them to attend on the next day. I do not know if the accused was produced before the Court on the 12th.

ARGUMENTS FOR THE CROWN.

Mr. Shiv Narain, Public Prosecutor, then briefly argued the case for the crown. He said, he would not press the case under section 175, as the accused had given good reasons for not producing the documents. The case under section 179 Indian Penal Code was, however, clearly established. The accused was legally bound to state the truth and had refused to do so. He was present in Court on the 16th, even if he had not received a regular summons, and had committed the offence for which he was being tried. The Court had the power to examine any person present in Court as a witness.

The case was adjourned until Monday, the 19th instant, for orders. *The Tribune.*

TEXT OF THE JUDGMENT.

The following is the text of the Judgment delivered on the 19th instant by Mr C. Keelan, Magistrate 1st Class Lahore, in the case against Lala Trilok Chand, Secretary, Punjab Provincial Congress Committee :—

The accused, Trilok Chand Kapur, son of Rup Lal Kapur, Secretary of the Punjab Provincial Congress Committee, was summoned by Mr. Keough, Additional District Magistrate P. W. 1. for the 12th December 1921 to give evidence in his Court and to produce certain documents in the case, *Crown versus Lajpat Rai and others*. Accused appeared on the 12th instant in obedience to a summons which had been served on him, but on this date the case was postponed to the 16th instant. Accused appeared on this date also, but refused to give evidence or to produce the documents, which were detailed in the summons served on him for the 12th instant. Accused has made a long statement before me, showing his inability more or less to have produced these documents. Now it was for the accused to plead this before the Court of Mr. Keough.

He treated that Court with contempt and the making a statement before me is as useless as it is absurd. I cannot take into consideration the accused's inability to have produced these documents. He is being tried for refusing to produce these documents before Mr. Keough, and not before me. These documents were detailed on the summons served upon him. As Secretary of the Punjab Provincial Congress Committee the documents required would usually be with the Secretary. The previous Court was not in a position to know that they were not with the Secretary. If, therefore, the accused had pleaded his inability before that Court, his prosecution would not have been ordered. Accused has to blame himself for his prosecution. But the accused is not repentant and he states that his reason for refusing to produce the documents or to give evidence in the Court of Mr. Keough is, because he has adopted the creed of civil disobedience in accordance with a resolution passed by the Delhi Sessions of the All-India Congress Committee. He further states "I want to go to Jail. I have been courting Jail for the last 4 or 5 months, rather ever since I have given up practice as a lawyer."

There is no doubt from accused's own admission and from the facts of this case, that the conduct of the accused in refusing to give evidence and in refusing to produce the documents called for by the Court of Mr. Keough, Additional District Magistrate, constitute offences under sections 175 and 179 of the Indian Penal Code.

Accused, who is well versed in law, has intentionally and deliberately committed himself in order to give effect to the said resolution of the Delhi Sessions of the All-India Congress Committee.

Accused is prepared to obey the orders of the Congress, but will not obey the law. The law has been made for the proper Government and peace of this country and cannot be broken with impunity. In the interests of the law-abiding citizens it must be upheld above the resolutions and orders of any mushroom growth.

The action and conduct of the accused are both bad. His example to the illiterate and ignorant is still worse. Where would a policy of civil disobedience land the Country? If there was any good in it one could understand a sensible person like the accused in adopting it. But when from it springs a principle, *i.e.*, of teaching disobedience to a Government, which is wrong and has always been wrong from its very inception. I cannot see eye to eye with the accused. It has been seen that ignorant and illiterate persons do not understand the fine principles of a creed which has for its object the undermining of the foundations of Government. To preach to them about soul force, Nonviolence and so on, and then expect them to keep cool and collected at the time of excitements is like telling them that they must not use their legs to walk. It is as absurd. It is only natural that once the mind is poisoned and inflamed, it must and will resort to violence. But those who are disciples of the doctrines of non-violence, civil disobedience etc., do not believe this. They are perhaps supernatural. They ought however, to understand that those creeds are not for the good of the people, that the sufferings now being experienced by persons in Malabar and other places, are but the result of the pernicious doctrine of non-co operation.

Accused in adopting this dangerous policy of Civil disobedience is playing with fire, and he has only himself to blame, if he burns his fingers. The accused has intentionally and deliberately brought this case on his head, so he cannot accuse the Government for his prosecution nor can he say that Government are adopting repressive measures. It would be a rotten Government indeed that would shut its eyes to crime and that would allow its law to be broken unchecked. Government exists for the good of the people and if it allowed accused's conduct to pass unnoticed it will be failing in its duty to its people.

I sympathise with the accused for his present state of mind. The fact that this pernicious doctrine of non-co-operation has poisoned his mind, shows how much worse it must act on the minds of the

illiterate and ignorant. The sacrifice which accused thinks he is making is not worth the policy of civil disobedience, as it is a policy which will lead the country to ruin and will bring unhappiness on thousands of homes and families. I cannot understand how accused ever made up his mind to adopt such a policy. I find accused guilty of having committed offences under Sections 175 and 179 Indian Penal Code.

I sentence him under both these Sections to 3 months' simple imprisonment under each Section i. e. 6 months in all, and Rs. 300 fine under each Section, i. e. 600 in all.

In default of payment of fine, the accused will undergo one month's simple imprisonment under each Section.

As the accused states that he wants to go to jail, I order that the sentences should run consecutively.

A POLITICAL JUDGMENT.

The *Tribune* in its issue dated the 29th December 1921, commented on the above judgment as follows :—

We are constrained to say that the judgment delivered by Mr. C. Keelun in the case against Lala Trilok Chand reads more like a political sermon than a judgment. Full one half of the judgment is a somewhat laboured essay on the heinousness of non-co-operation and civil disobedience, and has no direct or special bearing on the case which the Magistrate had before him. The Magistrate seems, indeed, to be more concerned to describe the doctrines of non-co-operation and disobedience as "pernicious" than to prove that the accused committed an offence. The procedure would have been intelligible had the case before the Magistrate been one in which a recognised leader of the non-co-operation movement was on his trial on a charge involving the justifiability or otherwise of non-co-operation or civil disobedience as a major issue. It was clearly out of place in a case which had nothing to do, at least directly, with either in its general aspect and which was restricted to the simple issue, whether the accused had refused to give evidence, and whether the refusal on his part constituted an offence under either of the two sections under which he was charged. For the purpose of such a case, the latter half of the judgment was clearly superfluous.

But it is not for the purpose of pointing out the superfluity that we refer to this aspect of the matter. It does seem to us that the attitude of mind of which this part of the judgment is the outcome actually led the Magistrate to perpetrate two irregularities, both of which must be considered to have adversely affected the accused. The first of these irregularities consisted in his convicting the accused of the offence of not producing certain documents when the Public Prosecutor himself had stated in his argument that he would not press this part of the case, as the accused had given good reasons for not producing the documents. This statement amounted, in substance, though not in form, to the entering of a *nolle prosequi*, and no reasons are given in the judgment why the Magistrate considered it incumbent upon him to reject the suggestion. The second irregularity consisted in the Magistrate's discretion that the sentences should run consecutively on the ground that the accused stated that he wanted to go to jail. Clearly the statement of the accused had nothing whatever to do with the merits of the case against him, and the Magistrate was not entitled to base any part of his orders upon it. He was there to try the accused according to law and, if he found him guilty, to give him the sentence that law and equity told him that he should give, and not what the accused himself desired. We have no hesitation in saying that in both respects the decision of the Magistrate is faulty, and we once again draw the attention of the High Court to the matter.

APPENDICES.

I

PRISONERS IN LAHORE JAIL.

[By K. SANTANAM.]

The following article was written by me some 10 or 12 days back, but since then several improvements have been made in the lot of the political prisoners. They have all been segregated in one place and they are allowed a little greater freedom and the food too has been made a bit more wholesome. [This article was received in this office on Friday, the 23rd December 1921, the day previous to that on which, according to reports, the political prisoners went without food.—Ed. T.] though there is no appreciable difference in the quality. But the remarks still stand true of the ordinary prison inmates and I think the public should have knowledge of them.)

At last the portals of the Central Jail, Lahore, were opened to admit us. I had very often wished to visit it to satisfy my curiosity but had not succeeded in doing so; but now I was entering it as a matter of right, like a king into his rightful domains. I felt curiously light and elated and the sight which met my eyes was, indeed one to gladden the heart of any man. A fine road beautifully kept and pleasantly watered with a long vista in front planked by iron railings on either side like huge cages with barracks looking spick and span and the warm winter sun shining over all. A beautiful place to be captive in, with no dust or dirt visible, surrounded by neatly plastered mud walls some 18 feet in height and neatly laid roads branching in all directions bordered by low clipped hedges, and an impression of wide, clean space and wholesome atmosphere, warmth and happiness; signs of human industry engaged in all kinds of pursuits under ideal conditions in a model town like Lever's or Cadbury's of which one has heard such a lot and seen such fine coloured pictures and photographs. This is the impression that any visitor will take away with him and he would, indeed, bless the British Government for its benignity, its humanity even, towards the fallen criminal, its care for his health and happiness.

But this is all on the surface. Who can know of the realities unless he has been, at least for a day, an ordinary inmate and been

subject to all the restrictions of every day routine? It is only then one realises that all is not as fair as it looks, that beneath the pleasing exterior the system is one such as to crush the soul of man. Who that has not led the life can know of the horrid smell which ever stinks in one's nostrils compounded of the smell of urine, night soil and half-hearted rank oil which is so carelessly sprinkled over the mess humorously styled vegetable prepared for consumption; can ever imagine the horrid taste of "roti" made of half ground wheat freely mixed with sand or grit nearly *katcha* and baked only in name as so not to fall "much below" the regulation weight and the horrid stalks of cabbages, and turnips boiled and sprinkled over with practically *katcha* oil or the *dol* the ingredients of which it is impossible to identify, sometimes too thick and sometimes too thin but always with the inevitable ingredient of sand and grit, all flavoured with a taste of rust, the necessary concomitant of the iron pans which form the dinner set on which all meals are served; or can form any idea of the choice foul language indulged in by the humanity around you gathered from all classes and creeds, abuses in every dialect which blast a whole family and drag in and exposes the real or imaginary defects and sins of long dead ancestors and and unborn descendants, mingled with the clanging of leg irons, the shrill noisy vituperation of the convict and other words who vie with each other in displaying the richness of their vocabulary and in using or abusing the little authority they are momentarily clothed with by a free use of their tongue and their hand; or can dream of the chill wet feeling which seems to exude from the mud-plastered walls of your cell from the iron pan and the earthen pot and from the draught which rushes through from which you can not protect yourself, try how you might—so cunningly is the cell constructed.

You have to live it to know about it. A casual inspection would not reveal even a tithe of it, and it will be no wonder if even the higher officials are unaware of it all. Some body has said that the art of good government lies in the capacity to put yourself in the other fellow's place and look at things from his point of view too. In jail life this is obviously impossible for any official, for he is obsessed always with what is done by himself for the good of the other and never can realise what the other fellow suffers; and so long as this remains, any jail reform is impossible. You may tinker up deficiencies here and there, but you can never go to the root of the evil. A jail ought to be a place not merely for the punishment of the evil-doer but must also aim at reforming him or give him the chance to rise superior to his past. If punishment were the only aim then it can indeed be safely said that the present jails serve their purpose admirably and leave very little room indeed, for improvement in this direction.

We were conducted to the lock-up which is a large enclosure like the sector of a circle about 150 yards in length along its arms and bounded by the boundary wall on the third side. In this are 3 barracks, one containing 29 cells, each separated from the other while the other two are open inside with or along the whole length with no partitions between the cells. There were at the time 10 other political prisoners and the rest were ordinary accused persons awaiting their trial for all sorts of offences including murder, rape, dacoity, theft etc. Only a few were undergoing sentences of simple imprisonment, all the others being under-trial prisoners. My experience is confined to only to this portion of the prison, but I am told that the treatment meted out here is typical of the whole jail with very few minor differences and that treatment is bad enough in all conscience. What justification the Government can have for treating them in this way passes my comprehension. Under the Criminal Law every criminal is supposed to be innocent until he is found guilty; but here in the jail he is subjected to the same treatment as a convicted felon from the very start. True it is that an under-trial prisoner can pay and have better food than the regulation diet, but this is all the choice that is offered to him. In all other things he has to conform to the ordinary jail routine. Is this not prejudging him? I contend that the life must be as little irksome as possible until conviction for very often innocent persons are run in and after a protracted trial are found not guilty and let off. Why should such men be made to suffer this purgatory for no fault of theirs merely owing to the incompetence or worse of the police? Let me describe the daily routine and one will realize then what cruelty lies in the treatment accorded to these unfortunates.

In winter the persons are awakened at about 7 A.M., or 7-30 A.M. and the barracks are opened. There is only one tap in this ward containing about 200 souls and very often water is not turned on till 8 or even 9 A.M. The poor fellows all make a rush for the latrines (which are a disgrace, a detailed description of which I will give later) only 2 places being provided. Some are able to ease themselves, other not, but whether they do or not, they are made to sit in a row by 8 o'clock when the morning food arrives and is distributed to the men. They have to swallow it as best they can and there is not even any convenience for drinking water with the meals. When this is over they are allowed to sit about half an hour or so; then those who have to attend court are taken away and the rest are again locked in in the barracks which in the meanwhile have been cleaned perfunctorily, very often the cleaning consisting in removing the filth lying about in the pots and pans provided for the purpose. At 12 noon the parched gram arrives and is distributed

but no one is allowed to come out. Again in the afternoon at about 4 o'clock the cages are opened again and they are let out. At 5-30 the evening meal arrives and is served in the same way. By 6 P. M. or 6-20 P. M. every body is again under lock and key to live the miserable winter night through shivering in the 2 or 3 thin blankets provided for them until the next day when the same dull routine repeats itself. Occasionally once or twice a week the cells are opened to allow men to wash themselves or on Sunday they are allowed to wash their clothes.

The whole thing is scandalous in the extreme. Why in God's name should they all be shut up the whole day even before conviction? The enclosure, a very large one indeed, is well protected and surely it can not be fear of escape that makes them keep the men shut in. What other reason can there be? I have seen the men shouting to be let out but their request was brutally refused. The one advantage of a Punjab winter is the bright sun one can enjoy during the day, but even this is refused in this God-forsaken place. It seems a pity to see so much sunshine go to waste, while nearly 200 shivering human beings were thirsting to drink it in and absorb it in their systems. Apart from this where is the justice of keeping a man confined in a narrow cell when you have not even established your right to punish him. You provide him with 3 thin blankets, insufficient even for November weather, and in December you deny him the right to sun himself when he may escape from the reek and stench which pervade the interior when people have to ease and wash themselves in a narrow confined space. Again why should not proper arrangements for bathing and washing be made? As I said before there is only one tap in this ward for nearly 200 people and the water comes only for about 4 hours each day. During this time the water pots have to be filled and the vessels cleaned. It can be imagined what little time and opportunity is left for the people to wash themselves or even their faces and hands and feet. It is remarkable that in all these years no one has given the least thought to this matter. They seem to be more concerned with keeping the surroundings clean than the inhabitants thereof. I am sure if they were to keep stables for even twenty horses they will not be content with one tap but for 200 Indians one small $\frac{1}{2}$ inch tap is considered sufficient.

Worse still is the latrine arrangement. A more insanitary and less private system of latrines it would be hard to imagine. The walls are only 3 feet high and the space in between is all merely partitioned one from the other, with no stone or wooden raised platform and to cap all, sand is heaped along the wall behind making it difficult even to squat decently. Fancy 12 such latrines

for 200 and all having to finish within an hour at the most. It is practically impossible, so, many find it better to perform this function in their own cells. It makes the cells smell but consider the other advantages, of convenience and privates

Last but not least of all the tribulations is the food. The food consists of 2 *rotees* supposed to weigh 7 *chhataks* but I do not think they will feel more than 5 at the most. In the morning you get a vegetable and in the night *dal* along with it. But what a vegetable! It is generally the vegetable in season and comes out of the jail garden. Nowadays we get either cabbage (I hope I am not mistaken but it is most difficult to distinguish) or turnips. We are told that since our advent the food has improved very much in quality. If so, I shudder to think of what it must have been before. The vegetable is cut into big chunks and along with the leaves is boiled and seasoned with a little oil and salt. The smell is generally revolting as oil heated slightly and poured over boiled vegetable neither smells nor tastes pleasant. The *roti* I have already characterised, but here again it seems there has been an improvement and certainly there is not much of sand or grit in it now. The *roties* we get are sometimes at least fairly well baked. But think of this food day in and day out. There is nothing to flavour it. Though chillies and onions are produced in the garden they are taboo for the inmates but, I hear, are sold. The system seems to proceed on the assumption that whatever is likely to flavour the food or the life of inmates must be prohibited. It is a breach of prison rules for any body to keep a chili with him and as such punishable. What an unsympathetic person must have drawn up the rules. Is it a sin to flavour the food with this inexpensive thing which grows in such abundance in the gardens? Or is it really that the prison is run like a business concern and the only idea is to make as much profit as possible? There is a good deal of corruption about some where; otherwise why should every article be so freely adulterated with the result that half the inmates are suffering from enlarged spleen. The parched gram too is mostly worm-eaten and the worst of gram seems to be selected for consumption in the jail. Apart from the monotony what nausea that must be created by it all! To me it is still a novel experience; nor am I experiencing the worst of it, but still my mind revolts at the thought that there could be such things under a Government professing to be paternal. The whole show is crying aloud for reform, but no body pays any heed to it.

To write of the things at all itself creates nausea. What could be more inhuman than to keep men in a *choldasi* chained each to the other by leg-chains and condemned to sit, sleep and walk all

together and given only the ordinary covering in this bitterly cold weather, all for want of room. Expense is a consideration but the health or comfort of the men is not. What a tragedy the whole thing is! We politicals are no doubt treated a bit differently and a little more courteously, but we have to suffer the same restrictions as to being locked up for most of the day, having to eat nearly the same food and with difficulty able to bathe, once in two days at least. There is no light at all kept anywhere and after sun-set we are all in unrelieved gloom for the whole long winter night.

We are also kept strictly isolated from the other inmates, and I do not know it is fear of their catching the infection of political ideas from us or it is an idea of having our innocence from being contaminated by their coarseness that has led to this segregation, but it is a nuisance to both of us. They are kept locked in, while they are out and we are kept in, while they are out, each cursing the other for the inconvenience. As a special concession a new latrine has been built for us and the monotony of the food relieved by fruits and other things that our kind friends send us everyday. But for how long? After our conviction we won't be allowed any such luxuries and will have to content ourselves with the same horrible mess. But the experience is worth all the inconvenience, and I thank God that I have had this chance, for, it has made me more human and given me a glimpse of the other point of view.

WHAT GOVERNMENT HAS DONE.

The following resolution was moved by Rai Sahib Lala Thakur Das, M. L. C. at a meeting of the Punjab Legislative Council on Tuesday the 11th January 1922:—

“This Council recommends to the Government that political prisoners in the Punjab be given better treatment, than is usually meted out to ordinary offenders against the law.”

Several speakers spoke in support of the motion. The Hon'ble Sardar Bahadur Sardar Sunder Singh Majithia, Member-in-charge in the course of his speech read out the following draft rules framed by Government under Section 30 of the Indian Prisons' Act:—

- (1) Special class prisoners shall be classified as such by the Superintendent by reason of the nature of the offence and the antecedents of the offender including his social position, education and standard of living.

(2) The Superintendent shall, so far as possible, allot to special class prisoners sentenced to rigorous imprisonment such tasks as may be suitable.

If any special class prisoner who is sentenced to simple imprisonment elects to labour, the Superintendent of the Jail shall allot to him such task as is suitable to his station in life.

(3) Every special class prisoner shall be permitted to provide his own clothing. The clothing may be conformable to the ordinary style of dress of the prisoner, but shall not offer facilities for suicide or escape; and shall provide a means of indentifying the wearer as a prisoner.

(4) A special prisoner shall receive a special dietary which shall be prescribed by the Inspector-General of Prisons with the previous sanction of the Local Government, provided that no such prisoner shall be entitled to a diet on the special scale unless he pays the additional cost over that of the ordinary prison diet, prescribed for European prisoners.

(5) The food of special class prisoners shall be separately cooked and in separate cook-houses from that of other prisoners.

(6) Special class prisoners shall be permitted to use their own cups and plates and bedding.

(7) Special class prisoners shall, if possible, be confined separately from convicts of other classes either in cells or in an association ward with other prisoners of the same class; but this rule may be varied by the Superintendent for sanitary or other sufficient reason; such reason shall be recorded in writing.

(8) Special class prisoners shall take such exercise daily in the open air as the Medical Officer considers necessary, and under such regulations as the Superintendent shall prescribe.

(9) Every Special class prisoner shall be permitted to sleep in the open in summer, and separate latrine accommodation shall be allotted to him, of such type as may ensure privacy.

(10) Every special class prisoner shall be allowed to have an interview with his friends and to write and receive a letter once a month during the term of his imprisonment, provided that the exercise of this privilege shall

be contingent on good conduct and may be withdrawn or postponed by the Superintendent of the jail for bad conduct, or for abuse of the privilege.

- (11) Special class prisoners may be given a light in their cells or wards till 10 P. M., and if there is a jail library may be allowed books from it on such conditions as the Superintendent may deem necessary.
- (12) Any act of misconduct on the part of a special class prisoner shall render him liable to the forfeiture of any or all of the concessions allowed by these rules for such period as the Superintendent may deem proper, in addition to any other punishment to which he may be liable under the Jail Code.
- (13) The Superintendent shall cause an abstract of the rules relating to discipline and conduct, rewards and punishments affecting prisoners to be placed in each cell or ward.

11

LETTER TO MAHATMAJI.

FROM LALA LAJPAT RAI

Dated 3rd December 1921.

7 A. M.

Dear Mahatmaji,

I am writing this to you so early as in all probability, I will be arrested by this evening. I am sorry I may look to have disregarded your wishes, but the circumstances are such as leave me no alternative. We have called a meeting of the Punjab Provincial Congress Committee for to-day 2 P. M. The Deputy Commissioner calls it a public meeting. Yesterday we received a notice from him asking us for the agenda and an assurance that no business not in the agenda would be transacted. We have refused to comply, maintaining that the meeting is not public and that it does not come within the Act. Most probably he will prohibit the meeting. He has also served us with a notice calling *ward meetings*

of Congress Committees also public. This means an entire stoppage of work. His orders are illegal, and if we had the option of fighting we might have won. But this is not to be.

Under the circumstances it is impossible for me to keep away from the meeting. Please pardon me if my action does not meet with your approval. I am quite happy and cheerful and will not whine for favours. I am going to insist on being treated as an ordinary prisoner even if they are so magnanimous as to offer me some privilege, which I do not believe they will. Rest assured I will not bring disgrace on your movement. Pardon me if I have ever seemed to be critical and distrustful. In all my actions only one motive has been uppermost in my thoughts, viz., that of loyalty to my country and my people. If I have erred, I have erred in good faith. Even in my criticism of my moderate friends I have had no other motive. I believed in what I said and I believe in it still. But if I was wrong they can pardon a mistaken comrade. I believe we are on the right path and that only non-violent non-co-operation can help us in achieving our goal."

[After referring to the Sikh movement Lala Lajpat Rai continues Ed. T.].

"We have selected Aga Safdar as my successor in the office of the President, Provincial Congress Committee and I have in consultation drawn up a programme for immediate action.

Mr. Stokes was this morning arrested at one of the roadside-stations for what offence and under what law I do not know. If I am still free by this evening I shall write to you again. If not, good-bye and farewell.

Your devoted comrade,

LALPAT RAI."

The reader will appreciate my sharing the foregoing with him. It is remarkable how every leader has made complete arrangements in anticipation of going to gaol. Of course, Lalaji could not have acted otherwise than he did. I was anxious for him, if it was naturally possible, not to seek arrest till after the Congress. But in the circumstances that faced him, he could not avoid attending the meeting without hurting the cause. A general ceases to be general when he shirks battle that is offered to him. In every action of Lalaji I see nothing but thoughtfulness and calm courage. I fully endorse Lalaji's tribute to the Sikhs. One sees in everything that is happening in the country the throes of a new birth. May God grant that no hasty action, no outbreak of violence impedes our unmistakeable progress towards our destined goal.—M. K. G. in *Young India*. [From the *Tribune*.]

III

MR. SANTANAM'S TRIAL.**TREATMENT OF HIS BROTHER.**

The following letter was addressed by Mr. K. Bhashyam, brother of Mr. K. Santanam to the High Court Bar Association, Lahore :—

I enclose a statement of facts as they happened when I went to see Mr. Keough, the Magistrate, who was to try my brother along with Lala Lajpat Rai, etc. that day. You may be aware further that the trial did take place inside the jail with no one of the public present but only in the presence of the Police and the Public Prosecutor inspite of the protest of the accused. I need hardly remind you that such trials in other than open Court are illegal and improper from all points of view. As a person interested in the proper administration of justice, I thought it necessary to bring these things to your notice so that your association may take action befitting its position as the premier Bar Association of the Province. If I may I shall suggest the matter being placed before the Chief Justice so that he may not be ignorant of the same.

On the receipt of the news of the arrest of my brother, K. Santanam, I came all the way from Madras to Lahore to see him not only about some family matters but also to be present at the trial, watch the proceedings and do all that may be necessary for helping him in his present position though he has refused to defend himself. On Thursday evening I had a short interview with him when I came to know that his trial, was to take place inside the jail precincts and that there will be some difficulty about admission. Next morning (i.e., the day of the trial) a barrister friend of Santanam's came to me and informed me that Mr. Keough, the trying magistrate, was creating some trouble about admitting me to the trial though he was apprised of the fact that I had come from Madras for the very purpose. In spite of this discouraging news, I thought of seeing him personally myself with a view to persuade him to change his mind. I went to the District Court buildings, sent in my card and waited nearly 30 minutes. Seeing I was not called in, I sent a letter to him stating my business and requesting permission to be present at the trial for Mrs. Santanam and her father who has come down from Kolahpur and for myself. There was no response to this even and after waiting for nearly a quarter of an hour, I ventured to enter the room of my own accord, having been told in the meanwhile that the room was only a public Court house and not his private room. I waited for a few minutes, as the Magistrate was busy

writing something. As soon as he finished he looked up and saw me standing. Some kind friend of Santanam's who was present there mentioned that I was his brother and had come from Madras. Suddenly that Magistrate lost his temper, bawled out that he could not allow anybody at the trial and that each accused may bring 2 relatives of his to be admitted to the trial room. I only interrupted him to ask him to pass what orders he pleased on my letter for admission. He said that the case was not before him, that he would not hear any argument from anybody. Seeing that it was useless to speak to him at that time I came away home. I again went to the jail a little after noon when I was told by some body in the crowd collected that the public was not to be admitted, but that only two relatives of the accused would be allowed. I could not bring myself to believe that an important case like the present should be held in jail and practically *in camera* and as a protest I had to return home with Mrs. Santanam who had followed me. The fact that the Magistrate showed such a temper even in an appeal for admission has made me anxious about the accused in their trial. *The Tribune.*

IV

PRESS COMMENTS.

THE "TRIBUNE."

If the Magistrate, who tried Lala Lajpat Rai is right in his interpretation of the words "public meeting" as defined in the Seditious Meetings Act, then not only all meetings of the Provincial Congress Committee and other political bodies, but all meetings of the Chamber of Commerce, of the various bar associations, of doctors, engineers, and other professional men fall under the category of "public meetings." Indeed, we are not certain that even a meeting of the Judges of the High Court does not belong to the same category. Here are the words of the Magistrate:—

"This particular meeting was open to that class of the public which fulfilled the conditions of membership of the Punjab Provincial Congress Committee. The Punjab Provincial Congress Committee is a public body which is accessible to all without distinction, as to caste, creed or religion." Does not this mean in other words that every meeting of a body which is accessible to all, without distinction as to caste, creed or colour, who fulfil the conditions of membership of the body is a public meeting? On this basis is not every one of

the several classes of meetings to which we have referred a public meeting? And is not a meeting of such a body as the Prince of Wales' Reception Committee which is presided over by the Chief Justice and includes so many officials of high rank, also a public meeting?

We have already announced the decision of the Local Government to remit the sentence passed on Lala Lajpat Rai and his three associates under section 145, Indian Penal Code and to move the High Court to consider the legality of the finding and the sentence in the other case. We need scarcely say that both parts of the decision will be welcomed with sincere pleasure both in the Province and the country, the first because the sentence of rigorous imprisonment which the Magistrate had thought fit to pass under the section was not only outrageously disproportionate to the alleged offence but was on the face of it absurd; the second because in view of the admitted diversity of opinion between official and non-officials as to what is or is not a public meeting it is certainly desirable that the highest court in the Province should have an opportunity of making a judicial pronouncement on the subject. This desirability has been rendered all the greater by the interpretation which the Magistrate has put on the words "public meetings" and which is clearly even wider than what has been put upon them so far even in the official world. But we hope the Government will not stop here. Now that it has decided to move the High Court, we have a right to expect that it will move their lordships in every important case, not merely for the purpose of testing the legality of the conviction but also the justice and appropriateness of sentences. As we have said so often, the meeting out of pure and impartial justice is the common interest of both the Government and the High Court.

The judgment of the Additional District Magistrate, Lahore, in the case against Lala Lajpat Rai and others has, as might have been expected, been subjected to the severest criticism in all parts of the country. But for obvious reasons the following which we take from a

leaderette in Friday's "Civil and Military Gazette" may be described as the unkindest cut of all :—

"The original sentence against Lala Lajpat Rai and his companions was perhaps rather hard to justify, so far as the rigorous imprisonment portion went."

This will doubtless give food for reflection to the Magistrate. As for the *Gazette* itself may we venture to ask a question? When precisely did it make this discovery? When the journal last referred to the subject, it was undoubtedly somewhat apologetic, but it surely did not say that the sentence was not justified. "The sentence may seem severe" is all that it said, and it added in the same breath, no doubt by way of justification of this severity, that the accused had deliberately defied the orders of competent authority and had also aggravated their offences by their conduct in Court. Is the greatest change in the journal's opinion due to the action of Government? If so, we suggest to it that it might henceforth wait until the authorities had given it a lead before adopting a particular line of criticism.

"We have purposely refrained from commenting on the judgment of the trying Magistrate in the case against Lala Lajpat Rai and his three associates, because we could never bring ourselves to believe that the judgment was the last word on the subject. We had, in fact, very little doubt in our mind that Government would, in its own interest and for its own good name, either remit the sentences altogether or devise some means of obtaining the verdict of the High Court as regards the legality or otherwise of the Magistrate's finding. This, we have held from the beginning, was the duty of the Government in every important case in which accused persons non-co-operated with the Court either fully or all but fully. The duty was the more incumbent in this case because of the strong conviction in the minds of all sections of the public that the four accused were absolutely innocent, that they had committed no offence even under the admittedly repressive measures, which the Government had seen fit to resort to for the purpose of dealing with the non-co-operation movement. So unanimous was the feeling in this respect that a well-known loyalist, who seldom sees anything wrong in official proceedings, expressed his profound astonishment to an assistant editor of this paper when he heard of the arrest of Lala Lajpat Rai.

The popular belief that the High Court would be moved in this case has, during the last few days, been strengthened by the statement made by Sir John Maynard in the course of the debate on Raja Narendranath's motion on the subject. The Hon'ble Member did not, indeed, say in so many words that the High Court

was going to be moved in this case, but what he did say has been universally interpreted as meaning nothing else. Government, he said in the first place, had entire sympathy with the object of the motion, apart from its details, and would welcome the exercise by the High Court of its power of revision in cases in which there was any substantial doubt or any question of the propriety of the sentence which had been imposed. Secondly, he stated that the Government had devised a method of its own for meeting this particular aspect of the position though he added in the same breath that circumstances in other Provinces had also to be considered before Government could take the necessary action. Thirdly and lastly, as regards Lala Lajpat Rai's case itself, the Hon'ble Member announced that the Government had decided to take steps to examine the legality of the finding. This, as we have pointed out already, was not as definite a statement of the intention of the Government as one would have expected, but can it possibly mean anything else than that the High Court is to be moved? In what other way can the Government examine the legality of the finding with any expectation of the result of the examination being accepted by the public as final, so far as the interpretation of the law goes, unless, of course, it is in favour of the immediate release of the accused?

For our part we have no hesitation in saying that the Government ought to lose no time in taking one or other of the only two courses open to it. It should either move the High Court or if it agrees with the public that the conviction under the Seditious Meetings Act is unsustainable it should release them without any avoidable delay. The latter would, in this particular case, be much the better course of the two, if it will be accompanied by a definite statement on the part of the Government that it is convinced that the meeting of the Provincial Congress Committee was not a public meeting. A mere remission of the sentence would not be enough, for the simple reason that it would leave the only issue involved in the case, apart from the larger issue of the freedom of speech, wholly undecided. It is no use releasing men to-day only to re-arrest them to-morrow. In the present case Lala Lajpat Rai and his companions have definitely declared that they will not accept any order forbidding them to hold a meeting of the Provincial Congress Committee. The Government must decide, once for all whether they are prepared to accept this determination on their part as lawful. If they are so prepared, there is only one course left open to them, and that is to release them forthwith. If they are not, they must clearly obtain the verdict of the High Court in their favour, if they wish the public to accept their own position as lawful. At present the public does not so accept it, and if the judgment of the

additional District Magistrate contains all that there is to be said in favour of it, there is absolutely no reason why it should.

The plain fact is that under the Magistrate's interpretation of the words "public meeting" there is no such thing as a private meeting. Of no group of individuals meeting together for any purpose can it be said that they are not a class or portion of the public in the sense in which the Magistrate defines those words. As we have pointed out already, every meeting of a Chamber of Commerce, every meeting of a bar association, including that meeting of the High Court Bar Association in which a strongly worded resolution was passed in connection with this very case, and even a meeting of such a body as the Prince of Wales' Reception Committee would, under this interpretation of the words be a public meeting, and for all such meetings, either the previous permission of the District Magistrate must be obtained, or notice must be given to him with the attendant risk of the meetings being prohibited by him. Indeed even meetings of the Legislative Council, of Municipalities and District Boards would be public meetings in this sense, and if the Magistrate may not interfere with them it is only because being statutory bodies they come under the Exception embodied in the Act itself. And the same thing would be true of a meeting of High Court Judges, perhaps of members of the Executive Government itself. The Magistrate's interpretation of the words is therefore, a veritable *reductio ad absurdum* of the position of the prosecution in the case, and the Government would, in our opinion have consulted its own interests and the interests of justice much better if it had not allowed all this fuss to be made, if it had instructed the Public Prosecutor to enter a *nolle prosequi* as soon as the facts were properly reported to it. Not having done this, it must now do the next best thing and must either release the accused itself and make a public admission of the District Magistrate's error, or it must let the High Court do the same thing for what it can not do, which no Government which has a regard for justice and for public opinion can do, is to detain a person in prison without being absolutely convinced of the legality of that action. The unwisdom and inexpediency of such proceeding is immeasurably greater when the person whom they thus detain in prison happens to be the foremost public man in the Province, a man who in different circumstances would have been one of them, who may be one of them yet, if only things are allowed to shape themselves as they should. We do hope the Local Government will make no further delay in coming to a decision in this matter. There is no question in this case, at any rate, of considering the circumstances in other Provinces. What competent legal opinion as well as ordinary commonsense have

pronounced to be unjust and illegal can be nothing else merely because circumstances in other Provinces are different."

THE "CIVIL AND MILITARY GAZETTE."

The trial of the leaders of the Congress organisation in Lahore came to a conclusion on Saturday, when Mr. J. E. Keough, Additional District Magistrate, convicted all four accused under both charges (section 6 of the Seditious Meetings Act and section 145, Indian Penal Code) and sentenced them to simple imprisonment for four and six months, with a fine, on the first charge and one year's rigorous imprisonment on the second. Lala Lajpat Rai and Mr. Santanam, as the more prominent leaders, received six months' imprisonment and fine of Rs. 500, and Dr. Gopi Chand and Malik Lal Khan four months and a fine of Rs. 300 in the first case. In awarding a sentence of a year's rigorous imprisonment in the second case, the Magistrate took a serious view of the offence, and though the sentence may seem severe it must be admitted that the accused deliberately defied the law in full knowledge that the meeting they insisted on holding had been prohibited by the competent authority. They also aggravated their offence by a defiant and even insolent demeanour in court.

Commenting on the remission of the sentence of rigorous imprisonment of one year the *Civil and Military Gazette*, wrote as follows:—

In the Punjab Council on Wednesday, while speaking on the resolution moved by Raja Narendra Nath recommending the Government to move the High Court under section 439, Criminal Procedure Code, to call for the record of all recent political cases in which the accused persons were non-co-operators, Sir John Maynard announced that Government had decided to remit altogether the sentence of rigorous imprisonment passed on Lala Lajpat Rai and others and to take steps to examine the legality of the sentences under the Prevention of Seditious Meetings Act. He also announced that Government had decided to release all Sikh prisoners convicted and sentenced under the Seditious Meetings Act. The original sentence against Lala Lajpat Rai and his companions was perhaps rather hard to justify, so far as the rigorous imprisonment portion went. But the Magistrate's judgment makes out, in our view, an unanswerable case for convicting the accused of deliberate and calculated defiance of the law. In the case of the Sikh prisoners, their release is only the last of many attempts of Government to conciliate the extremist section by concession and the results of previous concessions have not been so encouraging as to make us hope for better results from this.

"THE NATION" (LONDON).

Mr. Gandhi's strongest ally in North Western India is Mr. Lajpat Rai who is more widely known in England and America than any Indian Nationalist of the time. He is now under arrest charged by the Punjab Government with infringing the Seditious Meetings Act, under which the city of Lahore was proclaimed a fortnight ago. Presumably, Mr. Lajpat Rai will be given a regular trial which will be a new experience for a man whose deportation under an old ordinance of the East Indian Company provoked a storm in India and in Parliament fourteen years ago. India does not contain another man whose personality and History make so damaging an indictment of bureaucratic Government. He is not, like Gandhi, "a man of unscrupulous theory"—as Mrs. Browning said of Mazzini. He is by temperament a liberal politician; by profession a lawyer; by calling a philanthropist and educational reformer, with a long record of self-sacrificing social service. And the reason why to-day he is a Non-co-operator and looked upon by Simla as a danger second only to Gandhi instead of being in his proper place as a responsible Minister of the Punjab Government is known to every educated Indian from Cape Comorin to the Khyber. He was arrested, it may be noted, on account of a meeting of the Provincial Congress Committee—described as a part of the routine business preliminary to the annual assembly of the National Congress in Christmas week.

"THE MANCHESTER GUARDIAN."

Aporepos of Lala Lajpat Rai's arrest the London correspondence of the *Manchester Guardian* writes:—"The news of the arrest of Lala Lajpat Rai is disturbing, particularly as it occurs on the eve of the Indian National Congress. According to the reports, the charge is connected with attending the routine meeting of the Provincial Congress Committee preparatory to the business of the Congress. In no sense is this a public meeting, but corresponds to a gathering of a branch of the Liberal Federation here in anticipation of an annual Conference. If such meetings are to be regarded as assemblies within the meaning of the proclamation prohibiting public meetings, the opportunities of common counsel between Indian Nationalists will be dangerously curtailed, and it is not likely that such an interference will be accepted. As to Lala Lajpat Rai himself, his reputation here as a fire-eater is quite out of focus. One who had a long talk with him this year in India told me to-day that he is a balanced and respected Indian leader.

" THE BENGALEE.

The arrest and imprisonment of the leaders of the non-co-operation movement all over India is a part of the policy that has been adopted to crush the movement. The Punjab leaders, like the other provincial leaders, are only victims to that policy. That policy has been condemned by all shades of Indian public opinion. The imprisonment of a leader of the position of Lala Lajpat Rai, who is held in the highest respect all over India, or of Mr. Santanam, Dr. Gopi Chand or Malik Lal Khan, can only make the political situation far worse than what it is. The charges on which they have been found guilty will disgust even the Moderates. The Lalaji, called the Lion of the Punjab by his admiring countrymen, has already suffered much for his country. The crown of the *Martyr* is now pre-eminently his.

So Lala Lajpat Rai has been sentenced to six months' simple imprisonment and a fine of Rs 500 for contravening the Seditious Meetings Act, as also to one year's rigorous imprisonment for joining or continuing in unlawful assembly knowing that it has been commanded to disperse. Mr. Santanam has also been condemned to similar punishment. We understand that the sentences are to run consecutively and that the rigorous portion of that imprisonment is to be put in operation first. Well, what are we to say of the result of the case except that the sentence leans on the side of severity? We should like to know whether the authorities really apprehended that public excitement and disturbance would follow in the wake of the meeting of the Provincial Congress Committee called by Lala Lajpat Rai. That is the only question that we desire to ask in this connection. How much we should have liked to see that matters were not precipitated to a crisis by the exercise of sober counsels and sweet reasonableness on both sides; only a little good sense and judgment and matters could be spared from coming to a head.

Public opinion was unanimous in regarding the sentence of rigorous imprisonment inflicted upon Lala Lajpat Rai and others as simply atrocious. There is some satisfaction to know that this view of the matter has not been lost upon the Punjab Government. The welcome announcement is made that the Government has decided to remit altogether the sentences of rigorous imprisonment passed against Lala Lajpat Rai and others and to take steps to examine the legality of sentence under the Prevention of Seditious Meetings Act. We trust the examination of legality will result in the discharge of political prisoners convicted of the offence of holding meetings. As the sentence of rigorous imprisonment in the case of Lala Lajpat

Rai and others has been remitted, we believe, the sentence of simple imprisonment will hold good. But taking all things into account the Punjab Government will be well advised in setting the Lalaji and others altogether free. The graciousness of such an act will have a favourable impression upon the public mind. A concession is invested with grace when it is not tardy or half-hearted but goes to the full length: The announcement is further made that the Punjab Government has decided to release all Sikh prisoners convicted and sentenced under the Seditious Meetings Act. This is a step in the right direction and we hope soon to hear that all political prisoners are to be set at liberty. We earnestly hope that this will serve as an object lesson to other Provincial Governments and that before long all political prisoners will be restored to their homes. Such a proceeding will have a soothing effect upon the situation and will go a long way to relieve its present tension. Considerations of statesmanship demand that such a step should soon be taken.

THE "AMRIT BAZAR PATRIKA."

The Punjab Government have remitted the sentence of rigorous imprisonment of one year under the Indian Penal Code, on Lala Lajpat Rai and others and have promised to consider the legality of the sentences under the Seditious Meetings Act. We had pointed out in our article on the Punjab Leaders case that the charge under the Penal Code on which the rigorous sentences were inflicted were superfluous for the whole case rested on the issue whether the meeting of the Punjab Provincial Congress Committee was a "public meeting" or not.

Lala Lajpat Rai and others are still under the sentence of six months' simple imprisonment, the legality of which the Punjab Government have promised to consider. Its illegality is present on the face of it and has shocked the whole of India. The prosecution should never have been started. It is not enough to "consider" the legality of the sentence and eventually to remit it. Measures must be taken to make the perpetration of such illegalities impossible and we do not know how that can be done so long as the people's representatives are not the custodians of their own liberty.

THE "SEARCHLIGHT."

Lala Lajpat Rai has been convicted for one year and six months, with simple imprisonment on a charge which despite all the

fervour displayed by the Government Advocate in his pleading and the orders of the Court cannot be regarded as having been substantiated. The definition of public meeting as given by the Government Advocate does credit to his fertile ingenuity but will not be generally endorsed. Anyway, the sentence cannot be said to be other than severe, considering that at any rate there was room for difference of opinion on the interpretation of the expression of public meeting. Be that as it may, Lala Lajpat Rai's conviction has made a distinguished addition to those whose incarceration amounts ultimately to a scathing indictment of British administration. Pandit Moti Lal and Lalaji are no lovers of violence, have been no party to intimidation and have had to suffer because the Government chooses to enforce emergency legislations which cannot be endorsed. In Behar, among those who are in jail are Moulvi Shafi, Moulvi Khurshaid Hussain, Babu Janakdhar Prasad, Babu Lachmi Narayan Singh, Babu Bindeshwari Prasad, Maulvi Shah Zabair, Babu Srikrishna Singh, Babu Jagat Narayan Lal, and Babu Krishna Prakash Sen Sihba. What offence have these gentlemen, in every way estimable, been guilty of except that they were members of an organization which Government had no business to declare unlawful. These convictions can not strengthen the position of the Government. When a Government, says the "Indian Social Reform" finds itself antagonising any considerable number of men of character formed in the fire of self-sacrifice in the public cause, it would be wise to consider whether, after all, it is right with itself. That is the question.

Sir John Maynard's announcement in the Punjab Council that his Government had decided to remit altogether—and not merely reduce—the sentences of rigorous imprisonment passed against Lala Lajpat Rai and others and to take steps to examine the legality of the sentences under the Prevention of Seditious Meetings Act furnishes an example which other Local Governments would do worse than follow. Lala Lajpat Rai and others were convicted to six months' simple imprisonment under the Seditious Meetings Act and to twelve months' rigorous imprisonment under Section 145 Indian Penal Code. It would thus appear that the sentence of rigorous imprisonment under the latter Section disappears altogether and the conviction under the Seditious Meetings Act remains. The sentences were outrageous and though it is minimised to a considerable extent by the remission, it is yet an outrage that private meetings of committees should be deemed to be public meetings and unlawful assemblies within the meaning of the Seditious Meetings Act. However that be, the action of the Punjab Government in conjunction with the promised enquiry into the legality or otherwise of the sentences under the Seditious Meetings Act as also the release of all Sikh prisoners, absolutely unjustifiably imprisoned under the latter Act

is an invitation to other Provincial Governments or similar action. The Government of Behar and Orissa showed wisdom in suspending their notification under the Criminal Law Amendment Act and their policy has justified itself. The release of those who have been convicted for offending—and it is at the worst a technical offence—against the notification is but a logical corollary of the suspension of further action under the notification. We do hope that even before the resolutions on the subject come to be moved during the coming session of the Council, the Local Government will take the needed action. Those who have been convicted—at any rate the vast majority of them—are men of character and education and the Government will be doing what is but just and wise in ordering their release.

“NEW INDIA.”

THE IMPORTANT ANNOUNCEMENTS made in the Punjab Legislative Council regarding the attitude of Government towards the political situation should greatly help in restoring peace in that Province. They are : (1) that sentences of rigorous imprisonment imposed upon Lala Lajpat Rai and his four associates will be altogether remitted ; (2) that all the Sikhs convicted for contravening the Seditious Meetings Act in respect of the agitation regarding the keys of the Golden Temple would be released ; and (3) that the Lahore High Court would be moved under Section 439, Criminal Procedure Code, in respect of those convicted under the same Act, in order to have the correctness of the application of the law examined. In some respects, this action of the Panjab Government constitutes the most striking reversal of policy known in recent times, brought about partly by public agitation and partly, by a review of the circumstances by the Government themselves. It further implies a consciousness on the part of Government that the Seditious Meetings Act was misapplied, and we warmly congratulate the Government on the courage which they have shown in acting according to their conviction, and the notable example which they have set to other Provincial Governments. We consider the decision to move the High Court to be an earnest endeavour on their part to do nothing which law may not sanction, and which may be inconsistent with justice.

We are exceedingly glad that Government have promised to have the legality of the convictions under the Seditious Meetings

Act examined. The Government would be well advised to withdraw the Act altogether, and thus restore the position to what it was before the arrests. That would clear the air, remove the immediate cause of ill-feeling, rally those people who are against civil disobedience to the side of Government, and enlist their moral and active support in regard to any reasonable measures which the authorities may take to bring such civil resisters to book. Only, we would specially ask that the Government should previously secure the specific support of the Legislature to such steps. The decision to refer the legality of the convictions is also quite necessary. The danger of allowing the wide interpretation given to "public meeting" by the Magistrate who tried the cases of Lala Lajpat Rai and others is quite obvious. A "public meeting" is defined by the Act as a meeting which is open to the public or any class or portion of the public. It is, of course, stated that a meeting may be a public meeting even though it is held in a private place and admission is restricted by ticket or otherwise. But to extend the application of the Act to meetings of committees or associations to which no outsider is admitted and which are held under well-defined rules and regulations, is to drive a coach and four through the Act and extend its application to circumstances which were not contemplated by the Legislature. If the decision is right, then a private talk over tea of a few friends about the civil disobedience movement would come within the terms of the section. It is a point worthy of note that those who were prosecuted were not willing yet to practise aggressive civil disobedience, but were compelled to disobey the law admittedly because it was felt that the policy and application of law were both unjustified.

We are glad that the resolution moved by Raja Narendra Nath asking the government to move the High Court to call under Section 439 of the Criminal Procedure Code for the records of each and every case connected with the recent political arrests in the Punjab in which a Non-Co-operator has been convicted, so that the validity in law and fact of such convictions may be examined, was passed. The necessity for this recommendation is obvious, and arises out of the regrettable decision of Non-Co-operators not to defend themselves. It may be said that the accused have themselves to thank if injustice is often perpetrated by their wilful omission to appeal. But the High Court is responsible for the impartial administration of justice, and the Government cannot afford, in the interests of public policy, to have the impression spread widely

that the magistracy, for some reason or other, are masters of the situation and may do anything without let or hindrance. Legal formalities require that the High Court should be moved, and if the accused would not appeal then the Government should take it upon themselves to set the legal machinery to work, so that the High Court may be enabled to peruse the records of such cases and pass appropriate orders, taking both law and fact into consideration. The Government are not mere prosecutors; the fact that their officers prosecute persons does not mean that they want convictions, irrespective of the particular facts of each case and of the law applicable thereto. They and their officers should assist the administration of justice not by taking sides or availing themselves of loopholes, but by affording facilities to the highest Court in the land to review each case. We think that this is the only correct position to take, in all the circumstances of the situation, and we hope that not only the Panjab Government, but all other Governments, will act in the spirit of the recommendation contained in Raja Narendra Nath's just resolution.

"YOUNG INDIA."

In the course of an article in *Young India* Mahtama Gandhi says:—

In the person of Lala Lajpat Rai the Government have arrested one of the greatest of us.

His name is known all over India. His self-sacrifice has enshrined him in the hearts of his countrymen. He has laboured as very few have for non-violence side by side with the freest expression and organisation of public opinion. His arrest typifies as nothing else can the attitude of the Government.

The Punjab has lost no time in choosing a successor. The Punjabis could not have made a better choice than by electing Agha Sufdar. He is one of the truest of Musalmans and one of the bravest of Indians. His services are all rendered in a most unassuming manner. I have no doubt that he will command the same loyal co-operation that Lalaji has. The best honour that the Punjabis can do to Lalaji is to continue his work as if he was in their midst. It is blind, foolish and selfish love which dissolves with the disappearance, permanent or temporary, of the earthly tabernacle which holds the deathless spirit. The Punjabis may not always get an Agha Sufdar

to guide them in the place of Lalaji. He may be removed from their midst sooner than we may expect. In well ordered organisations leaders are elected for convenience of work, not for extraordinary merit. A leader is only first among equals. Some one must be put first, but he is and should be no stronger than the weakest link in the chain. Having, therefore, made our selection we must follow him, or the chain is broken and all is lost.

I wish I could impart my faith to the people that nothing much remains to be done in order to take us to the heaven. The way is clear before us. The President-elect has stated it in unequivocal terms. My first word and my last word to you is never to forsake the ideal of non-violent non-co-operation. I know it is a difficult creed to follow. I know that sometimes the provocation is so great that it is extremely difficult to remain non-violent in thought, word and deed. The success of the movement however depends upon this great principle.

In order to enable us to enforce this great principle in our own lives, we must avoid all occasions for provocation. We therefore need no demonstrations now nor big meetings, we must discipline those have become awakened to withstand provocation and to do constructive national work which is organisation of carding, hand spinning and hand weaving so as to enable the nation to supplement her slender resources and to find work for the idle hours of the millions. Hindu Muslim unity is an article of faith with us. It is not to be cultivated or demonstrated except by all working together for national uplift and therefore devoting their time exclusively to manufacture of "Khadi."

As soon as we have attained a complete boycott of foreign cloth and begun to manufacture our own "Khadi" in our respective provinces and villages, we can become free probably without having to resort to mass civil disobedience. Therefore aggressive civil disobedience should be avoided, at least till after finishing the boycott of foreign cloth and qualifying for the manufacture of handspun "Khadi." Defensive civil disobedience which is forced on us in the prosecution of our campaign we ought to welcome whenever it comes.

It will be a distinct sign of weakness and unfitness for Swaraj, if these imprisonments dishearten or demoralize us. He is no soldier who is afraid or unwilling to pay the toll demanded of him. The more he is called upon to pay, the more glad he is to find himself the first to have to pay. Let

us believe and know that we must provide the Government gaols with all the work they can take. I am convinced that it is not argument but suffering of the innocent that appeals both to the persecutor and the persecuted. The nation will shed her slothful indifference and the governors their callousness by the sight of such suffering. But it must be the willing suffering of the strong and not the unwilling suffering of the helpless weak. Those who have gone or are about to go to gaol can say. "It is finished; We who remain outside have to prove worthy of their finished work by continuing their work till we have set them free or have joined them. He serves best who suffers most.

THE "MARHATTA."

India is asserting her right of free speech, free press and free association while the bureaucracy are denying Indians these very rights. Lala Lajpat Rai and his colleagues were clapped in Jail for holding an ordinary private meeting of the Provincial Congress Committee which is decided by the trying Magistrate to be illegal and covered by the Seditious Meetings Act. The best jurists in the country hold that this interpretation of the act is clearly an encroachment upon the rights of citizens, and Government have no other course open to them but to release the prisoners or to move the High Court and get a ruling. We do not know what the High Court would decide but as it is, the palliative of cancelling the rigorous imprisonment and turning it into simple cannot improve matters much. The Government of the Punjab has wisely retraced its steps in the Sikh Gurdwara affair and the Sikh leaders are released. But who is responsible for their detention in jails for so long a time? What is the reparation that Government is going to make in the matter? Will Lord Reading with his love of justice do the needful?

THE "BOMBAY CHRONICLE."

So the Lion of the Punjab has been sentenced to eighteen months imprisonment of which the first twelve will be rigorous and the obliging Magistrate has arranged that the "hard labour" should begin at once. This is not the first time that the great leader has accepted suffering from the sake of his country. His whole life has been

one dedication to the emancipation of his country and his countrymen in whose hearts his name has been enshrined for all time. "In all my actions," he wrote to Mahatma Gandhi on the eve of his arrest, "only one motive has been uppermost in my thoughts, namely, that of loyalty to my country and my people." And to quote Mahatma Gandhi, "he has laboured as very few have for non-violence side by side with the freest expression and organisation of public opinion." That such a man as he should, by palpable misapplication of a repressive law, be clapped into jail like a common felon, and for the crime of standing up for a fundamental right of the people, what time an ex-Lord Chief Justice of England rules as Viceroy, bring into relief the regime of "Law and Order," not to talk of Justice, under which we are living to-day! The sacrifice of such as he is perhaps necessary to bring home to every one of us that if there is nothing in life more worth having than the right of free speech and free association, there is none more worth suffering, nay, worth dying for. Without this right a people cease to exist as civilised human beings; they become mere dumb driven cattle. No cost, therefore is too great for the defence of these rights. And in Lala Lajpat Rai's incarceration India has paid the cost of her emancipation.

In the course of a leading article headed "Towards Sanity" the *Bombay Chronicle* says:—

Again, since Government have seen the wisdom of releasing Sikh prisoner under the Seditious Meetings Act, they cannot with any decency or propriety continue to detain in jail Lala Lajpat Rai and other Punjab leaders who have been imprisoned under the same Act. What is sauce for the goose must be sauce for the gander. The commutation of their sentences to "simple" imprisonment will not matter in the least to them, since punishment, heavy or simple is the same to them, or rather, whatever leniency is shown to them in particular will be felt by them as an insult to their patriotism since they do not desire that any such partiality should be shown towards them while their brethren of humble status continue to be harshly treated. If, therefore, the Punjab Government imagine that Lala Lajpat Rai and his co-workers or their countrymen will be pleased with the "mercy" shown to the former, they are mistaken. The Lalaji and his colleagues have fully counted the cost of their patriotism and do not wish to bargain over it. As they have themselves told the Court, they would have been much better pleased if the maximum penalty had been awarded to them, if the Court was not prepared to believe in their innocence. The Government's "leniency" therefore, is miscalculated and is bound to fail in achieving its pur-

pose. If their policy is to be frankly and courageously honest, they ought to release the leaders unconditionally as they have released the Sikh prisoners. Their complete surrender in the case of Sikhs, is however, an indication of the return to sanity in their counsels.

THE "LEADER."

In the course of a leaderette the *Leader* says :—

As for the sentences passed upon Lala Lajpat Rai and others, in spite of the Government Advocate's ingenious advocacy and definition of the phrase "public meeting," a very large body of public opinion, even legal opinion, take the view that the sentences are entirely invalid, and constitute a gross miscarriage of justice. We have before now expressed our view that it is not enough for Government to provide the means for the redress of injustice, but it should try as far as possible to obtain it of its own accord in cases where those means are not availed of for one reason or another. After all, it is the primary duty, and under present circumstances greatly to the interest of Government, to see that justice is enforced and not allowed to languish by default. Being on this subject, we invite the attention of our own Government, for similar action, to the case of Babu Bhagwan Das whose conviction has been asserted to be entirely illegal by no less an authority than an ex-acting Chief Justice of Madras, Dr. Subramania Iyer. We are also happy to notice that the sentences of rigorous imprisonment which the Lahore Magistrate thought it necessary to pass upon Lala Lajpat Rai and others have been wisely remitted by the Government and not merely reduced. We strongly hope that the spirit displayed by the Punjab Government will be imitated in all the other provinces. It is only such action as it has taken that will show to the ordinary citizen that when the Viceroy declared his determination that the policy of the Government in the present struggle would be firm but conciliatory, he meant exactly what he said.

"NEW TIMES."

Lala Lajpat Rai and his colleagues have been sentenced to one year's rigorous imprisonment under Section 145 Indian Penal Code for "joining or continuing in unlawful assembly knowing it has been commanded to disperse." They have also been sentenced for contravening the Seditious Meetings Act to various terms of simple

imprisonment and fined. It was in the course of the trial that the additional charge, under section 145 Indian Penal Code, had been framed. Lala Lajpat Rai and others questioned the validity of the very hypothesis on which the whole prosecution was based and additional charge framed. He also denied that the meeting of the Provincial Congress Committee could come under the purview of the Seditious Meetings Act, on the simple ground that the meeting was private and open only to its members. The *amicus curia* appointed by court without the consent of the accused to defend them had emphasised during the course of his arguments on the private nature of the meeting and he pointed out that according to the wide and elastic scope of the definition as enunciated by the public prosecutor even the association of a father with his children at the hearth could be termed a public meeting. But it would, he argued, be preposterous on the part of Government to declare the meeting of a father and his children punishable under the Act. Another point to note is the heavy sentences passed by the convicting Magistrate. The sentences passed for similar breaches are much lighter in other Provinces. This perhaps is due to the over-anxiety of the Punjab Government with regard to the movement of civil disobedience in the Province—the sword arm of the Empire in India.

“THE SERVANT OF INDIA.”

Mr. S. K. Mukerji, B.A., LL.B., Vakil, High Court, Lahore, writes in the course of an article in the *Servant of India*:—

The conviction, of course, was under both the charges, and the fact that they arose out of and constituted the same set of facts and were merely classified under different definitions of law, was altogether immaterial to Mr. Keough, the trying Magistrate. One precious gem from the argument of the Magistrate may be selected here. The Magistrate held that the meeting in question was a public meeting, because “it was open to that class of the public which fulfilled the conditions of membership of the Punjab Provincial Committee.” It is easy to reduce this argument to an absurdity by saying that the annual Christmas dinner of the Punjab bureaucracy at which post-prandial speeches are made, may come within the category of a public meeting, because it is open to that class of the public which fulfilled the condition of membership of the Punjab Commission. It is true that the local Government, perhaps realising that the separate convictions and sentences were untenable by reason of the legal principles embodied in section 71 Indian Penal Code, remitted the portion relating to the rigorous sentence, but the real point is that the whole thing was *coram non-judice*.

"THE CIVIL AND MILITARY GAZETTE".

THE trial of the leaders of the Congress organisation in Lahore came to a conclusion on Saturday, when Mr. J. E. Keough, Additional District Magistrate, convicted all the four accused under both charges (section 6 of the Seditious Meetings Act and section 145, Indian Penal Code) and sentenced them to simple imprisonment for four or six months, with a fine, on the first charge and one year's rigorous imprisonment on the second. Lala Lajpat Rai and Mr. Santanam, as the more prominent leaders, received six months' imprisonment and a fine of Rs. 500. and Dr. Gopi Chand and Malik Lal Khal four months and a fine of Rs. 300 in the first case. In awarding a sentence of a year's rigorous imprisonment in the second case, the Magistrate took a serious view of the offence, and though the sentence may seem severe it must be admitted that the accused deliberately defied the law in full knowledge that the meeting they insisted on holding had been prohibited by the competent authority. They also aggravated their offence by a defiant and even insolent demeanour in court.

"NEW INDIA."

Lala Lajpat Rai has been sentenced to six months' simple imprisonment under the Seditious Meetings Act and one year's rigorous imprisonment under Sec. 151 I.P.C. the sentences to run consecutively, the latter beginning first. This sentence of 18 months' imprisonment is outrageous. The legality of the application of the Seditious Meetings Act to a meeting in a private house is open to the gravest doubts, and to call the Committee thus meeting an unlawful assembly is a straining of the law. Similar sentences have been passed upon the other colleagues of Lala Lajpat Rai. Severe sentences such as these for what can at most be only technical offences will surely embitter public feeling against the Government and alienate popular sympathy. The sentences of rigorous imprisonment should be at once annulled, and the case itself should be reviewed at an early date, and justice done to the accused.

"THE SWARAJYA."

We learn from a telegram published elsewhere, that Lala

Lajpat Rai and Srijut K. Santanam have been sentenced to one year's rigorous imprisonment and an additional term of six months' simple with of course a fine added. Srijut Gopichand and Janab Lalkhan have also been sentenced. The Magistrate has, we find, put some variety into the sentences.

In the estimation of the people, Lalaji is next only to Mahatmaji. An English paper writes of him "Mr. Gandhi's strongest ally in North-Western India is Mr. Lajpat Rai, who is more widely known in England and America than any Indian Nationalist of the time. He is now under arrest. Presumably, Mr. Lajpat Rai will be given a regular trial, which will be a new experience for the man whose deportation under an old ordinance of the East India Company provoked a storm in India and in parliament fourteen years ago. India does not contain another man whose personality and history make so damaging an indictment of bureaucratic government He is by temperament a liberal politician; by profession a lawyer, by calling a philanthropist and educational reformer with a long record of self-sacrificing social service. And the reason why to-day he is a Non-co-operator and looked upon by Simla as a danger second only to Gandhi, instead of being in his proper place as a responsible Minister of the Punjab Government is known to every educated Indian from Cape Camorin to the Khyber." We have only to add that to his long list of service to his country he has added still another by leading Civil Disobedience in his province.

Sjt. Santanam hails from our own province. He gave up a flourishing practice at Lahore, and was among the first in the Punjab to lead the way for Non-co-operation. He is a man of remarkable energy. It is in a large measure due to him that so much organised work was done in the Punjab.

"THE HINDU."

The conviction of and the sentences passed on Lala Lajpat Rai, Mr. Santanam and other Lahore leaders for the alleged offence of holding a meeting of the Provincial Congress Committee throw a lurid light on the mentality of some of our officials. The meeting, as we have pointed out, before, was a

purely business meeting; and we contended that if that meeting could be maintained to be a "public meeting" within the terms of the Seditious Meetings Act, then, any meeting could be held to constitute "a public meeting" under the Act. Mr. Herbert, the Government Advocate, whose arguments we publish elsewhere, has proved that the Punjab bureaucracy is capable of stretching the law farther to suit its purposes than our worst fears imagined it was. Mr. Herbert argued with evident pride that even an ordinary meeting of a corporation was a public meeting and that any meeting to which one member at least of the public—and there is no human being who is not a member of the public—has access is a public meeting. And as to creating or tending to create public excitement, bearing in mind Mr Herbert's definition of the term "public," any meeting which had the possibility of exciting at least one man or provoking his anger, might be held to be a meeting calculated to excite public excitement! And the District Magistrate held with Mr. Herbert that the Provincial Congress Committee meeting was a public meeting. The manner and grounds of conviction apart, the sentences awarded are in themselves significant. They are almost the maximum that the law permits and Mr. Herbert, on behalf of the Punjab Government, asked for the maximum penalty, not because the offence was serious, but because the accused were truculent! Fine as well as imprisonment has been imposed and where the law gave an option as regards the nature of imprisonment, the Magistrate has not shrunk from making it rigorous. Above all, it will be noticed that the sentences are not, as in the case of the Ali Brothers, to run concurrently, but consecutively. And the sentences are to run, not in the natural order, but in the reverse order of the offences for which they are awarded. That is to say, Mr. Lajpat Rai and his coadjutors are to pay the penalty, first, for their second offence, that is, for having promoted an unlawful assembly which offence preceded and was made possible by the first offence, that is the holding of a public meeting in contravention of the Seditious Meetings Act. The order of exacting the penalty is reversed so that the accused might begin with the rigorous, and not with the simple, imprisonment! Can justice be made more vindictive? It is this spirit that actuates some of our "rulers" at present. But they forget by resorting to these methods, they are defeating their ends. Not by these means can respect for law be secured. Rather, ten more sentences of this sort—and the prisons will truly have become, as Mr. Gandhi wishes they should, the asylums of honoured patriots.

THE RELEASE.

"THE TRIBUNE."

The *Tribune* commenting on the Punjab Government Press *Communique* announcing the release of Lala Lajpat Rai and others in the course of a leading article says:—

The second paragraph of the *communique* amounts to a complete vindication of the popular view in a matter in which that view was diametrically opposed to the view entertained in official quarters in this Province. The *communique* does not mention the authority which the Punjab Government consulted, and does not state whether it was legal or quasi-judicial or merely administrative. Our own latest information is that it merely referred the matter to the Government of India. But whatever might be the case, what is perfectly clear is that this authority has held that the entire proceedings in the case beginning with the arrest of Lala Lajpat Rai and his three companions and ending with their conviction and sentence and the imprisonment to which they were subjected, were unlawful. This is precisely what the public has been saying from the first, and it has every reason to rejoice that its view in a matter of such crucial importance has so signally triumphed. Some idea of the nature of the victory may be gathered from the fact that had the opposite view succeeded, practically the whole work of the Congress would have had to be either stopped or carried on unlawfully. Much of this work has already been banned, and clearly all of it would be equally under a ban if even a Congress Committee could not meet and transact its business without being officially interfered with for doing so.

But while the second paragraph affords room for unalloyed satisfaction, we can scarcely say the same thing about the first. The section under which the sentences are remitted runs as follows:—"When any

person has been sentenced to punishment for an offence, the Governor-General in Council or the Local Government may, at any time, without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced." Clearly these words refer only to the sentence, and by exercising its power under this section the Panjab Government has left the conviction of the four gentlemen entirely unaffected. We are not lawyers, but one need not be a lawyer to see that the mere remission of the sentence does not and cannot meet the requirements of justice in this case. The second paragraph clearly shows that the Government is now satisfied as the public has been from the beginning, that the conviction itself was unsustainable. What it is morally, if not legally, bound to do, therefore, is to wipe out the conviction. That it has not been able to do so is due to two causes, first that it did not consult expert opinion before the conviction of the accused instead of waiting until they had been convicted, and secondly, that it did not move the High Court in the manner that was suggested, first in these columns and subsequently in the Legislative Council itself. The only proper course, in our opinion, would have been for it, the moment it was convinced that a wrong had been done, that persons had been convicted who ought not to have been convicted, to have either gone up to the High Court with a prayer for revision, at the same time instructing its law officers to say plainly to their lordships that the Government did not want a conviction, or approached the Viceroy with the request that in virtue of the prerogative of Pardon which has now been vested in him he should wipe out the conviction of the accused. Let us hasten to add that the delay that would have ensued in either case, particularly in the first, would have been undoubtedly regrettable, and that so far as the four gentlemen themselves are concerned, it would not have

improved matters in the least, for to them in their present mood and temper, as in the mood and temper of a large number of people, conviction by a court of law is not a matter of any concern. But we are referring to the logical, the moral and the public aspect of the matter, and not to the aspect that concerns the individuals affected.

The third paragraph does not state the offence for which Lala Lajpat Rai has been re-arrested. We find it stated in the "C. and M. Gazette" that the new charge is the abetment of offences under the Criminal Law Amendment Act and the Seditious Meetings Act. In the absence of details and also because the case is *sub judice* we do not desire to express and are, indeed, precluded from expressing any opinion on the merits of the new case. But two things we are bound to say. One is what we have pointed out already, that as these alleged offences of Lala Lajpat Rai were not and could not possibly have been committed during the last few days, either he should have been tried for them long before now, or he should have been re-arrested after a decent interval. To release him and then re-arrest him immediately was a proceeding which, however lawful, could not but appear to the man in the street to be farcical, if not devoid of any meaning, and this impression was bound to be heightened by the fact that, according to our information, he had not only been brought out of the jail premises but his things had actually been put in a motor car when the re-arrest was effected. The second and even more important thing is that he should not be tried on the new offence by any Magistrate who had anything to do with the previous case or who is in any way subordinate to the District Magistrate. However the fact may be disguised, the present action of Government amounts, in effect, to a severe rebuke to the District Magistrate who was immediately responsible for the proceedings which are now set aside, and it is not in human nature that he should not feel

it. But even if he were above the ordinary human feeling, the authorities must take into account the feeling of the public. As the Court of Directors pointed out in a famous despatch, it is not enough that justice should be done ; it is necessary that the parties concerned should be convinced that justice has been done. They could not surely be so convinced in this particular case, if the District Magistrate, whose blunder has already cost the accused as well as the Government so dear, were again to try him on a new charge. The matter is one for the High Court no less than for the Local Government, as the question involved is nothing less than that of maintaining popular confidence in the administration of justice. We do hope either or both authorities will move at once, and see that the new case is tried by an entirely independent tribunal.

"THE LEADER."

The release of Lala Lajpat Rai and Messrs. Santanam, Lal Khan and Gopi Chand is an admission by the Punjab Government of the untenability of the definition of "public meeting" as used in the Seditious Meetings Act, which the trying magistrate thought fit to accept. It is for that reason that instructions are proposed to be issued to prosecuting agencies that meetings like the one, at which Lala Lajpat Rai and others were arrested, do not constitute a "public meeting" legally under the Seditious Meetings Act. A large wrong has thus been unquestionably righted but almost all the good effect that it might otherwise have produced has been neutralised by the immediate re-arrest of Lala Lajpat Rai on a charge, it is stated, under the Criminal Law Amendment Act. Could not the Government have held its soul in patience until Lala Lajpat Rai had given any further cause of action after having actually regained his freedom? It is still premature to speak definitely in the absence of any particulars as to what the charge actually is but if it is merely a technical affair, then it would appear that the Punjab Government is not willing to agree to the prosecutions under the Criminal Law Amendment Act guilty of intimidation, obstruction, coercion or violence. It is bad enough that the Criminal Law Amendment Act

should have been used beyond the purpose for which it was invoked namely, checking intimidation. It would be the height of impolicy if after all the discussions in the Councils and the country prosecutions were to continue under it for merely technical breaches of the law.

"NEW INDIA."

It is a relief to learn that the Government of the Punjab have released Lala Lajpat Rai and his associates, and that they have further told prosecuting agencies that meetings, held in the circumstances in which the meeting of the Provincial Congress Committee under notice was held, are not legally constituted "public" meetings to which the Seditious Meetings Act could apply. We are glad this sensible view has appealed to the authorities and that they have had the courage to own the mistake of their agents. We notice that the Lala has been re-arrested on a charge under the Criminal Law Amendment Act. If the alleged offence for which he has now been re-arrested is one which was committed before he was prosecuted under the Seditious Meetings Act, as we must presume it is, then we should strongly object to the step. The Government have well-paid legal advisers and prosecutors, whose business it was to have instituted proceedings against the Lala at that time. To charge him now with a new offence would be put down to the inspiration of an after-thought and taken to be vindictive. It is quite necessary that the Government should consider this aspect of the question.

"THE SIND OBSERVER."

If the course of a leading article the *Sind Observer* says:—

The release and the rearrest of Lala Lajpat Rai awaken a train of thoughts in our mind. The feelings that are aroused at hearing the news vary from light comedy to serious tragedy through the medium of heavy farce. For action without thought, persistence without reason, and surrender without grace commend us to the Punjab Government. They scented sedition in the Gurdawara meetings, hunted "offending" Sikhs in packs, and had to leave them off foiled in the expedition. The second climb-down comes with the release of the Punjab Congress Committee group. A strictly business meeting of a well-known public body of standing, reputa-

and pacific and open intentions they banned as seditious. Protests against the palpable misapplication of the Seditious Meetings Act, they did not heed. An obliging magistrate was found to convict them on cheap charges. They satisfied themselves of the perfect justice of the course they had adopted.

But the Legislature interfered and caused a little more than a rustling in the leaves. The Government had to yield, after not a little delay and hesitation. Yet grace is wanting in their methods. They do not admit that they have been compelled to move in the matter at the instance of the Legislative Council, for then it would be graceful and showing respect to that body. They merely state they are advised that the meeting of the Punjab Congress Committee was not actionable under the law, and therefore, the conviction of Lala Lajpat Rai and his friends are not right. Well and good. But did the Punjab Government consult the officers of the Crown when they were first launching the proceedings? If not, why not? What are we to think of the obliging magistrate who took a wrong position in law and declared the meeting to be a public one and gave the heavy awards? Next. Five gentlemen of status and position unjustly convicted and put in prison. Let us not talk of their privations in jail. Have the Punjab Government expressed their regret at their hasty and illegal action? Are they going to do it? It will never be too late to do so.

V

PUBLIC MEETINGS HELD.

Public meetings were held in a large number of places in the country on the arrest and conviction of Lala Lajpat Rai and his comrades. Names of some societies and towns are given below :—

(1) Lahore (Arya Samaj Anarkali and Wachhowali, D. A. V College and School, City Congress Committee), (2) Amritsar, (3) Lyallpur, (4) Gujranwala, (5) Jullundur, (6) Ambala, (7) Hoshiarpur, (8) Multan, (9) Arya Samaj Sham Chaurasi (10) Arya Samaj and Congress Committee, Dera Ismail Khan. (11) Arya Samaj, Jullundur, City (12) Arya Samaj, Jhang, (13) Khilafat and Congress Committees Peshawar, (14) Arya Samaj, Bajwara. (15) Arya Samaj, Nakodar, (16) Congress Committee, Ludhiana, (17) Arya Samaj, Jagroan (18) Adampur-Doaba, (19) Raiwind, (20) Tank, (21) Dera Ghazi Khan, (22) Sabarnpur, (23) Mahalpur, (24) Ahmadabad, (25) Rajkot, (26) Bahatinda, (27) Ramgarh, (28) Mukerian and (29) Partapgarh, (30) Nagpur, etc., etc.

VI

LALA LAJPAT RAI.**INTERVIEWED IN THE LAHORE CENTRAL JAIL.**

A representative of the *Tribune* saw Lala Lajpat Rai in the Lahore Central Jail on Saturday (10th December 1921) and had a talk with him regarding various matters connected with their life and experience as under-trial prisoners. A brief account of the interview is given below :—

HEALTH.

Asked as to the state of his health, Lalaji said that he felt slightly feverish ; otherwise he was all right.

ACCOMMODATION.

Asked to give a general idea of the place where he was kept, he said that the part of the jail in which he and the other three Congress leaders were kept was known as the Judicial Lock-up. It is divided into three blocks. The block in which they live is divided into 22 cells. Each cell has one window and one door. The door opens into the corridor and the window is outside. There is consequently a horrible draught at night. The other two blocks are without cells and practically open all four sides, except for iron bar-doors. Further the whole block is overcrowded, and even then a large number are kept in what is known as *eholdari* where prisoners have to sleep at night with their legs chained together.

CLOTHING.

Asked as to whether the blankets supplied to the prisoners were sufficient, he replied in the negative.

OTHER ARRANGEMENTS.

As to other things Lalaji said that the latrine arrangements were exceedingly bad. There is no privacy of any kind, and no provision for using water. Further one has literally to sit on the ground. He added, however, that a special latrine had been provided for himself and his friends. Similarly, the water supply is far inadequate. There is one tap for nearly 300 persons, and even this one tap is not kept open for more than 3 hours or so in the day, with the result that the prisoners have not enough water for washing or bathing purposes.

FOOD.

Asked as to the quality of the food supplied, Lalaji said the stuff of the bread was fairly good but the cooking was very bad as the bread often remained *katcha*. The vegetable is mostly turnip or some such thing is cooked with oil. Of the food as a whole the Lalaji was understood to say that it was exceedingly bad.

LIGHT AND FURNITURE.

There is no light in the cells at night, and one feels great trouble about easing. The only furniture in the cell, with the exception of two iron plates which have to serve all possible purposes, is a mattress.

UNNECESSARY RESTRICTIONS.

In reply to another question Lalaji said that there were quite unnecessary restrictions about the prisoners leaving their cells. There is a big compound, and there can be no conceivable harm in letting the prisoners go out and take fresh air and exercise. But they are shut up in their cells for practically the whole day.

NO COMPLAINT, ONLY A STATEMENT OF FACTS.

Lalaji wished it to be understood that he had no complaint whatever to make about the officials. Poor men, they did their best and all that was required of them by the rules. Here as elsewhere it was the system that was bad and needed complete overhauling. Personally, he was quite happy and contented.

THE QUESTION OF GIVING EVIDENCE.

Asked as to what he considered to be the duty of these newspaper men who were being summoned as witnesses to give evidence in political cases, Lalaji said he saw no reason why they should not give evidence. The Congress programme did not require that they should refuse giving evidence and he was of opinion that they should not refuse.

TREATMENT OF POLITICAL PRISONERS.

DIFFERENTIATION OBJECTED TO .

BY LALA LAJPAT RAI AND OTHERS.

(From Congress Publicity Bureau).

With regard to the better treatment that is to be accorded to the political prisoners, we learn that the Superintendent of the Central Jail, Lahore, presumably under instructions from the Government, sent for the following 14 gentlemen from among the lot of political prisoners and informed them that they along with Mr. Stokes have been put in the special class of prisoners and would be given special improved diet more or less on the lines on which the diet was given to a few Martial Law prisoners in 1919. He enquired from them their opinion on the matter. On this, the following reply was sent : —

To

The Superintendent,

Central Jail,

Lahore

Sir,

Concerning the matter of the special diet proposed to be allowed to a selected number of political prisoners we, the undersigned, have the honour to state as follows :—

An improvement in the ordinary diet allowed to the convicts is always to be welcomed, and we are of opinion that political prisoners as such are entitled to better food than what is given to them at present. The scale proposed for us, the undersigned, is, we consider the minimum that ought to be provided. But at the same time we feel constrained to say, that unless this diet is allowed to *all political prisoners* without exception we would not care to avail ourselves of it. We are of opinion that there are

no reasons for any differential treatment in the matter of food between one class of political prisoners and another.

If the Government is not willing to accept the principle that all political prisoners are entitled at least to this special diet, then in order to make the present food eatable and to ensure proper cooking in clean surroundings we think it necessary that separate Kitchen arrangements should be provided under our supervision.

Yours faithfully,

1. Lajpat Rai.
2. Bawa Gurdit Singh.
3. K. Santanam.
4. Dr. Gopi Chand.
5. Malak Lal Khan.
6. Mohammad Azam.
7. Mazhar Ali,
8. Lal Din.
9. Gian Chand.
10. Dr. Soha Mal.
11. Swami Shiva Nand.
12. Bishen Nath.
13. Master Sunder Singh.
14. Raja Ram.

No reply has been received up-till-now and no further action has been taken. The political prisoners are being given the same diet as the ordinary prisoners in the jail. [The *Tribune*, dated Feb. 2, 1922.]

VIII

“PRESS COMMUNIQUE.”

The following *Press Communiqué* was issued in connection with the case on Feb. 1, 1922 :—

Orders have been issued by the Punjab Government under Section 401, Criminal Procedure Code, remitting the punishments to which Lala Lajpat Rai, Mr. K. Santanam, Malik Lal Khan and Dr. Gopi Chand were recently sentenced for offences under the Prevention of Seditious Meetings Act.

Instructions will be given to the prosecuting agencies that meetings held in circumstances such as those in which the meeting of the Provincial Congress Committee, at which the above named were present, was held, do not legally constitute public meetings.

On his release, Lala Lajpat Rai was rearrested for a different offence.

IX

PROHIBITION AGAINST INTERVIEWS.

A WEEK'S REMAND OBTAINED.

Lala Lajpat Rai was produced before Major M. L. Ferrar, I. A., O.B.E., District Magistrate, Lahore, in the Central jail at about 3. p. m., on Tuesday, the 31st instant. The Court Inspector applied for a remand of 7 days, which was granted. The charges against Lala Lajpat Rai are abetment of offences under Section 7 (1) of the Seditious Meetings Act and Section 17 (2) of the Criminal Law Amendment Act.

We understand that even though Lala Lajpat Rai is now an under-trial prisoner, the applications of Mr. Duni Chand and Lala Ram Prashad and Pandit Gyan Chand Ramjal to interview him in jail were rejected by the Superintendent of the Central Jail. It is believed that these applications were refused under orders of Government. Lala Lajpat Rai's son and daughter were also not allowed an interview on Tuesday evening. [The *Tribune* Feb. 2, 1922.]



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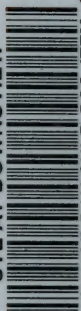
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